uNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

Plaintiff,

versus

VINCENT BASCIANO,

Defendant.
----------x

Docket No.:
05 CR 60 (NGG)

U.S. Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

April 18, 2011
9:21 a.m.

Transcript of Criminal Cause for Trial

Before: HONORABLE NICHOLAS G. GARAUFIS,
District Court Judge
(and a jury.)

APPEARANCES

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Proceedings recorded by mechanical stenography. Transcript produced by computer-aided transcription.

(In open court.)

(Defendant present.)

THE CLERK: Case on trial.

Counsel, state your appearances.

MS. MERKL: Taryn Merkl, Nicole Argentieri, Jack Dennehy, and Stephen Frank for the United States.

Good morning, Your Honor.

THE COURT: Good morning.

MR. GOLTZER: George Goltzer, Richard Jasper, Ying Stafford for Mr. Basciano. Good morning.

THE COURT: Good morning.

All right. The jury, I understand, is here. Is that right?

THE CLERK: Yes.

THE COURT: The jury is here.

Before we begin, I just have a few items. First of all, I'm unsealing the record of July 30th, 2004, that has been requested by the defense. It's being -- it's going to be put up on ECF in 02 CR 307.

MR. GOLTZER: Thank you.

THE COURT: That's with regard to the in camera proceeding with Mr. Massino, when he indicated to the Court that he wanted to talk.

THE COURT: That's with regard to the in camera proceeding with Mr. Massino, when he indicated to the court that he wanted to talk to the FBI and the prosecution after he was convicted at trial.

In addition, we have -- I have the motion of the government and the response of the defense regarding the government's renewal of its application to put in the Queens social club murder and the evidence of an alleged solicitation to murder AUSA Andres.

The government has moved for reconsideration of the court's previous rulings that evidence of the Queens social club murder and the solicitation to murder AUSA Andres may not be admitted at trial, pursuant to Federal Rule of Evidence 403. The court denies the government's request to admit evidence of the Queens social club murder for the same reasons previously stated.

The court also denies the request at this time to admit evidence of the solicitation to murder AUSA Andres. Criminal defense's theory of the case, as stated in opening arguments, the defense may open the door to introduction of the Andres solicitation.

The court will not speculate on the many different scenarios in which the probative value of this evidence could increase tipping the Federal Rule of Evidence 403 balance back toward admissibility. The one possible scenario in which this

evidence would become significantly more probative is if the defense seeks to prove that under the rules of the mafia once the defendant was arrested and no longer acting boss he could not have ordered a murder and Aiello, Cicale, or Mancuso would necessarily have disregarded any order by the defendant that predated his arrest or refused to take any new orders from Basciano following his arrest.

Under the scenario, evidence of the solicitation to murder Andres would be most probative if it involved evidence that Aiello, Cicale or Mancuso actually took orders from the defendant after his arrest and not merely that the defendant asked Massino for permission to murder AUSA Andres. The government's motion is denied, but the government may renew its motion in the future, should circumstances change.

Are we ready for the witness?

MR. JASPER: Yes, your Honor.

THE COURT: All right. Now, is it the defense that wants this board up with the pictures?

MR. JASPER: I had not put it up, your Honor, no.

THE COURT: Well, let's take it down.

MS. MERKL: Your Honor, I don't think we need the screen either. We just weren't sure how to retract it.

MR. JASPER: We will be using the ELMO.

MS. MERKL: Okay. Then perhaps I'm wrong. We were testing the audio. We don't need it for the audio, but if you

are going to need it for the ELMO.

THE COURT: Are you going to need it for the audio?

MR. JASPER: Am I --

THE COURT: No, no. Are you going to play parts of the tapes?

MR. JASPER: Yes, your Honor.

THE COURT: Well, I have to switch from one modality to another. So you just need to tell me which you are going to use first.

MR. JASPER: Okay, your Honor. Then I will use the ELMO first.

MR. GOLTZER: Forgive me, judge. I was a little confused about your Honor's scenario about the possibility of opening the door. Is there either a written copy I can look at or perhaps place on the screen? We don't want to inadvertently fall into that --

THE COURT: We will get you a written copy.

MR. GOLTZER: Thank you, judge.

THE COURT: Do you want to see the transcript? Would you like to see the transcript now?

MR. GOLTZER: Please.

MR. JASPER: Yes, your Honor.

THE COURT: Why don't you take a quick look at it.

MR. GOLTZER: I know Mr. Jasper would like to see it before me.

THE COURT: It's on the screen at counsel's table, which we use for the sidebars.

All right. Let's bring in the witness.

MS. MERKL: Your Honor, I have just one scheduling matter. The government was advised on Friday and over the weekend that the defense will likely utilize the full portion of the day with Mr. Massino, due to the fact it's a short day.

So the government may have a standby witness for this afternoon, but if we don't have somebody here by 2 o'clock or so and Mr. Jasper has concluded, I know the court was planning to end a little bit early, but we just wanted to make sure there was not going to be a problem in the event that Mr. Jasper decides to end earlier than he anticipated.

THE COURT: If he ends at a certain point you will have an opportunity to redirect.

MS. MERKL: Redirect, that won't be lengthy at this point. I don't anticipate that will be lengthy. That could, of course, change, depending upon the cross.

THE COURT: If we finish with Mr. Massino at 2:15 or so, 2:30, we will just adjourn for the day.

MS. MERKL: All right. Thank you, your Honor.

THE COURT: I'm only going to take 45 minutes for lunch. We are going to break for lunch at around 12:30.

(Mr. Massino resumed the stand.)

(Continued on the next page.)

(Jury enters.)

THE COURT: Please be seated. Good morning, members of the jury.

Before we begin, let me just remind you that today we are going to conclude no later than 3:00 p.m., and then we will not have court tomorrow, Tuesday, or on Wednesday; and then we will have court on Thursday, but not on Friday. So we only have two days this week.

And with that, Mr. Jasper, you may continue your cross-examination of the witness.

The witness is reminded that he is still under oath.

THE WITNESS: Thank you, your Honor.

JOSEPH MASSINO, called as a witness, having been previously duly sworn, was examined and continued to testify as follows:

MR. JASPER: Thank you, judge.

CROSS-EXAMINATION

BY MR. JASPER:

Q Mr. Massino, last week when the government's counsel was questioning you, towards the end of that examination you were asked whether or not, after listening to these tapes that we have been listening to, the ones that you had secretly recorded, whether or not listening to them you had an understanding as to whether or not Randy Pizzolo had been killed.

Do you remember that?

A Yes, I do.

Q I think you told us last week that after listening to the tapes and after listening to what -- how Mr. Basciano responded to your questions, your understanding was that he, Mr. Basciano, had ordered Mr. Pizzolo to be killed.

Is that correct?

A That's correct.

Q Now, Mr. Basciano was arrested before Thanksgiving, correct?

A Correct.

Q And Randy Pizzolo was -- well, you first found out about Randy Pizzolo's murder in early December at a codefendants' meeting; is that correct?

A That's not correct.

Q When did you first learn about Randy Pizzolo's murder?

A I believe it was the day after Thanksgiving, November 2004.

Q The day after Thanksgiving?

A I believe it was, if not the following Friday.

Q That was still in the month of November?

A It was in November.

Q So you learned about Randy Pizzolo's murder the day after he died, is that what you are saying?

A A couple of days later.

Q Do you know that Randy Pizzolo died on November, his body

was found December 1st, the morning of December 1st? Are you aware of that?

A I believe it was sometime in November they found his body.

Q You believe it was November?

A Yes.

Q What is your understanding that it was November that he was found?

A We had a codefendant meeting. And Johnny Joe says to me -- which is a Wiseguy in the Bonanno Family -- he said, Did you see they killed Randy Pizzolo? I said, No, I'm in the SHU. Sometimes I get the newspapers; sometimes I don't.

With this, Vinny Basciano steps up and tells Johnny Joe to excuse himself, I want to talk to the chief.

THE COURT: Go ahead. I'm sorry.

A (Continuing) So he sits next to me and he tells me, I killed Randy Pizzolo, I said, With who? He was hemming and hawing. He really didn't want to say who.

Then he goes on to say, Ace. He said, I think Joey Gambina didn't handle himself. Dominick spoke highly of him. That's why he wasn't going to make him, and Dominick Cicale was there, captain of the Bonanno Family.

Q After Johnny Joe came to you and said -- did he say, did you see they killed Randy Pizzolo? Is that what Johnny Joe said, yes or no, if you can?

A All he says was, Johnny Joe told me did you see the papers.

I said I don't get the papers all the time. Randy Pizzolo, he got murdered or killed.

Q At that time did you respond to Johnny Joe Spirito at that codefendant meeting in early December, did you say to him, as long as he deserved it? Do you remember saying that?

A No, I didn't.

Q Do you remember him saying, If it was warranted?

A No, I didn't say that.

Q Now, you told us that your understanding was that Randy had been killed and that Mr. Basciano was responsible for it.

Is that so?

A That's correct.

Q Now, you have never spoken to Dominick Cicale about the murder of Randy Pizzolo, correct?

A Correct.

Q And you have never spoken to Ace Aiello about -- Anthony "Ace" Aiello -- about the murder of Randy Pizzolo; is that correct?

A That's correct.

Q And you never spoken to Joey Gambina about the murder of Randy Pizzolo, correct?

A Correct.

Q And you have no personal knowledge yourself as to who killed Randy Pizzolo, correct?

A Correct.

Q By "personal knowledge" I mean all you know is what you have been told, correct?
A Correct.
Q You weren't there, obviously, right?
A No.
Q And you took no part in the planning of it?
A Knew nothing about it.
Q Knew nothing about it?
A Correct.
Q So therefore you have no personal knowledge about it, correct?
A That's correct.
Q Now, after Mr. Basciano did -- did Mr. Basciano excuse Johnny Joe?
A Yes, he did.
Q And he spoke to you one on one?
A He sat right alongside me. Johnny, say, was sitting there. He said, Excuse yourself, Johnny Joe. I want to talk to the chief.

He got up, and Vinny sat down.

Q Where did Johnny Joe go after that?
A He sat in Vinny's seat.
Q That was how far away from you?
A I'm going to say five feet.
Q Now, this is in MDC?

A MDC Brooklyn.
Q Is there one room that's larger, for meetings with attorneys and codefendants?
A That's the room we was in.
Q It can seat several people?
A It could probably sit -- I'm going to say eight to ten people.
Q Now, you had been with Vinny Basciano on November 23, 2004, about a week or so before this codefendant meeting; is that correct?
A Fair to say.
Q And that was in the courthouse at the time, the federal courthouse here in Brooklyn?
A The first time I met him?
Q No. The first time you met him after his arrest.
A I met him in the bullpen.
Q And at that time your understanding is that Randy Pizzolo was still alive?
A It was never mentioned.
Q But is it your understanding that Randy Pizzolo was still alive --
A When I met him in the bullpen, yes.
Q Now, there was no mention of Randy Pizzolo by Mr. Basciano, correct?
A Correct.

MS. MERKL: Objection, your Honor. Clarify the time frame.

BY MR. JASPER:

Q On November 23 in the bullpen there was no mention about Randy Pizzolo; is that so?

A That's so.

Q There was no mention about any plan to kill Randy Pizzolo, correct, on November 23?

A That's correct.

Q There was no mention about anything being in the works regarding Randy Pizzolo's murder on November 23, to you, right?

A Correct.

Q There was no mention about Mr. Pizzolo being an annoying F'ing kid, correct, on November 23, in the bullpen?

A That's correct.

Q There was no mention about him being a problem for the family on November 23, right?

A His name never came up. That's correct.

Q There was no mention about him being a problem for the family?

MS. MERKL: Objection, asked and answered.

THE COURT: Sustained.

Q Now, these recordings, the first recording occurs on January 3, 2005; is that right?

A That's right.

Q That is what the transcript, at least what we have been referring to as Government Exhibit 405-T, right?
A I ain't got nothing in front of me.
MR. JASPER: I'm sorry.
(Binder placed in front of witness.)
BY MR. JASPER:
Q Would you take a look at Government's 405-T.
Is that the January 3, 2005 --
A Yes, it is.
Q -- conversation, the transcript of that conversation?
A Yes.
Q Now, that wasn't the first time that you had seen Mr. Basciano in the SHU, correct?
A That's the second time I seen him.
Q And the SHU, that's the Special Housing Unit, right?
A Correct.
Q At MDC, the Metropolitan Detention Center, correct?
A Correct.
Q Sometimes referred to as the hole?
A Correct.
Q Now, you saw Mr. Basciano before that day, and you had a conversation with him?
A What are you doing up here? He said, I don't know, and I see you sometime later or something like that. He was walking with a guard and that was it.

Q And so on January 3 is that the first time that you were placed where you could have a conversation together?
A Yes, it was.
Q Then there was another conversation that was held that you had recorded on January 7, 2005 in the SHU, right?
A That's correct.
Q And in between January 3 and January 7 you had been placed on the rec deck with Mr. Basciano; is that correct?
A That both times, yes, the 3rd and the 7th of January 2005, that's correct.
Q Now my question was: Between those two times was there yet another time when you and Mr. Basciano were together in between January 3 and January 7?
A He was walking by -- I don't know if he was going on a lawyer's visit -- and gave a cop a can of potato chips, Pringle's; and he said, Hey, Bo, taste these chips. They are delicious.

So I know he was trying to send me some kind of a message. So I took the chips, and in the cell you got a lined table. I open the chips and I went like this, and in between there was a note and I read the note.
Q Now, that note that you referred to, let me ask you a question about that.

You had asked Mr. Basciano at some point how many people had been made; is that correct?

A I believe so.
Q And that note responds to your question about how many people had been made, correct?
MS. MERKL: Objection.
THE COURT: Objection?
MS. MERKL: How does he know what Mr. Basciano is responding to?
THE COURT: Sustained.
MR. JASPER: Well, your Honor, could we publish through the ELMO Government's Exhibit 100-1.
THE COURT: Is that in evidence?
MS. MERKL: It is, your Honor.
MR. JASPER: It is, judge.
THE COURT: Let me just check. Yes. All right.
(Published.)
BY MR. JASPER:
Q Do you have 100-1, the note that I just referred to, in front of you, Mr. Massino?
THE COURT: Yes.
A Excuse me?
THE COURT: He has it on the screen.
Q On the screen, do you see that, sir?
A Yes, I do.
Q And is this the note that was passed to you by Mr. Basciano?

A Yes, it is.
Q And it says, If you could just let someone know that what I'm saying is coming from you, I think it would make everyone feel better. Altogether it was 12 guys. Two weren't done yet. They did one, and then it says, Okayed last year. Last week, one left. My son comes tonight on visit.
MS. MERKL: Your Honor, I just note there was a slight misreading of the note with regard to the second sentence, for the record.
BY MR. JASPER:
Q Well, Mr. Massino, would you read that note for me.
THE COURT: Can you just move it slightly.
A If you could just let someone know that what I'm saying is coming from you, I think it would make everybody feel better. Altogether it was 12 Wiseguys two weren't done yet. They did one last week. One left. My son is coming tonight on a visit.
MS. MERKL: Your Honor, same issue.
Q Does it say there, Okayed last year?
A Yes, it does. It's on the side, Okayed last year.
THE COURT: What's your objection?
MS. MERKL: Your Honor, just --
THE COURT: The word "everyone"?
MS. MERKL: No, clarity of the record. For some reason everyone keeps reading the word "will" as "would," on the third line down. The note speaks for itself obviously.

THE COURT: All right. It speaks for itself. Very well. Let's go.

BY MR. JASPER:

Q Now, Mr. Massino, in this note Mr. Basciano is telling you about guys, members of the Bonanno Family who were previously made, correct?

A Correct.

Q And you told us that Mr. Basciano became the acting boss sometime in February of 2004, correct?

A February, March, sometime there, yes.

Q Now, there were also people who were made by the previous acting boss, correct, Tony Urso, is that a fact?

A That's a fact.

Q And you approved those people who were made by Tony Urso?

A If I got their names. They were told as long as somebody put somebody up that's with that individual for eight years, they got my blessings to do it.

Q So as long as that person was known by someone for eight years they didn't need your explicit approval?

A That's correct.

Q They didn't need your explicit approval to make somebody?

A Correct.

Q And that was something that you left to the discretion of the acting boss on the street, right?

A I don't leave no acting boss. I left a panel on the

street, three captains.

Q So Tony Urso, it's your testimony, was not an acting boss at the time that you were arrested?

A He was a panel. Tony Green, Joe Saunders, and Petey Rabbit they were on the panel.

Q Petey Green -- Petey Rabbit is Peter Calabrese?

A That's correct.

Q And Tony Urso?

A That's also known as Tony Green, that's correct.

Q Now, the three of them, if they couldn't agree on something, how was that to be resolved?

A They would have to send me word.

Q So that you would have to resolve that in jail?

A Correct.

Q And did that ever occur?

A No, it didn't.

Q And they were all captains?

A The three of them were captains.

Q And they all had equal rank?

A Yes, I believe so.

Q Well, when you say you believe so, you gave them their rank, didn't you?

A Yes, but it's possible I might have left Tony there as acting underboss. I don't think so, but.

Q So it's you -- as you think about it sitting here, Tony

Green may have been an acting -- may have been higher than the other two captains?

A It's possible, but I don't think so.

Q Now, Tony Green was your underboss?

A He was a captain. If anything, he might have been acting underboss, but I don't recall that at all.

Q And an acting underboss is higher than a captain?

A Yes.

Q And an acting underboss would have authority to give directions to captains, correct?

A The three of them had to give directions.

Q But my question is: The acting underboss had authority to give instructions, orders, to the other captains?

A If he was alone as one individual, as the acting underboss, yes; as a panel, no.

Q Now, when Mr. Basciano gave this note to you, you had asked him on January 4 what was going on with the family regarding people who were made, correct?

A January the 4th?

Q Yes, sir.

A I didn't see him January the 4th.

Q Are you sure of that?

A I seen him the 3rd, and I believe I seen him the 7th.

Q Did you ever see Mr. Basciano in the SHU and have a conversation with him, conversation that was not recorded?

A The only time I seen him was when he was going on a meeting. It was hello, and taste these potato chips, they are great.

Q Well, during that period of time when he is passing with the guard, he didn't ask you what was happening or you didn't ask him what was happening with the people who were made, how many guys had been made, correct?

A No. There was nothing said, just taste the potato chips, they are great.

Q I'm sorry?

A That was it.

Q But this note, Government's 100-1, Mr. Basciano is telling you about people who were previously made and inducted, correct?

A Correct.

Q In this note, where he is telling you about people who were previously made and inducted, you had made an inquiry of Mr. Basciano about people who had been previously made, yes or no?

A Correct.

MS. MERKL: Objection, time frame.

THE COURT: Sustained, time frame.

BY MR. JASPER:

Q Well, did you ask Mr. Basciano about people who were previously made on January 3?

A We talked about guys being made in the bullpen. I got messages with some guys. When they made Dominick, they gave me a message. When they moved him up to being a captain, I got a message.

Q And you got a message before he was moved up to captain, through Tommy Lee; is that correct?

A That's correct.

Q And you had no objection to that, correct, sir?

A Let him do what he wanted to do, that's correct.

Q And you had no objection to it, right?

A Correct.

Q And you also received lists of people who were going to be proposed when Mr. Basciano was out on the street, correct?

A Sometimes I seen them; sometimes I didn't.

Q Well, sometimes you saw them and sometimes you did not?

A Correct.

Q Well, you learned at sometime in 2004 that Mr. Basciano wanted to induct and make Randolph Pizzolo as a made man, a Wiseguy in the Bonanno Family, correct?

A You are saying January 4, 2005?

Q No. I'm saying, sometime in 2004 you received a list, which contained Randy Pizzolo's name on it, yes or no?

A It could have been 2003. '3 or '4, I don't remember exactly.

Q But you know that Mr. Basciano had wanted to propose Randy

Pizzolo as a made member, correct?
A That's correct.
Q Do you ever remember telling your wife in a telephone conversation that you and Mr. Basciano had been put together in the SHU when you weren't supposed to?
A No, I don't recall that.
Q One of the things you also told us last week was that Mr. Basciano had been the only person who was doing the right thing about money with respect to you, correct?
A Correct.
Q And by that you meant he was kicking up what he was supposed to kick up to you, right?
A Correct.
Q He was collecting moneys that were entitled to you as the official boss, and that was happening, right?
A Some moneys, correct.
Q Well, he gave you 60,000 -- well, he gave you more than $60,000 at Christmastime, correct?
A Correct.
Q Now, 60,000 of that was from him directly to you as a Christmas gift, correct?
A No.
Q But he gave you somewhere close to $70,000, correct, your wife actually?
A I don't recall 70.

Q What do you recall?
A Sixty.
Q And that was given to you as the official boss of the Bonanno Family, right?
A That was money that come to me from my Shylock business that he collected some money. Some money was from him for Christmas, and some was from a bookmaking business.
Q When you said Mr. Basciano was the only one doing the right thing, what do you mean by that?
A Everybody else stopped paying.
Q They stopped paying you the official --
A Shylocking money. I never got a dime from my sports business in two years. Everything come to end.
Q Except for the money that Mr. Basciano was giving you?
A Moneys that he gave me and some moneys that he collected, Shylock money for me, that's correct.

MR. JASPER: Your Honor, at this time I would like to play a clip two from Government's 405-T.

THE COURT: Do you have a page of the transcript?

MR. JASPER: I'm sorry, your Honor?

THE COURT: A page?

MR. JASPER: I'm sorry. Page 9, line 21.

(Recording played.)

BY MR. JASPER:
Q Now, Mr. Massino, what you are telling Vinny Basciano there

is that Nicky -- is that Nicky Santoro?
A That's correct.
Q That he is a broker, and by that you mean he is always broke?
A Yes.
Q Doesn't have a lot of money?
A Correct.
Q And it's not good policy for a captain to be broke, right?
A Especially when you don't pay nobody, yes.
Q Especially when you don't pay nobody, right?
A Right.
Q So you are a captain, you are borrowing money, you are supposed to be a leader, but you are basically sponging off of people; is that it?
A That's it.
Q That's bad for morale, correct?
A Correct.
Q Now, down to line 15, page 10 you say, If you would have asked me and didn't jump, I would have told you don't put -- put them -- Michael I don't know nothing about. You know what I'm saying.

Now, Michael, that's Michael Mancuso?

A That's correct.
Q Michael Nose, correct?
A Correct.

Q But you did know that Michael Nose was a backup person on the Georgie Sciascia murder, correct?
A He was no backup.
Q He was on the scene, correct?
A Yes.
Q And you knew that, right?
A I didn't know until after the fact.
Q I understand, but my question is: You knew something about Michael Mancuso, yes or no?
A Yes, I did.
Q So that when you say, Michael I don't know nothing about, that's not entirely accurate, correct?
A Correct, but what I was reference to, I don't know if he was capable of helping running the family. That's what I meant by that.
Q But you knew something about Michael Mancuso, you knew who he was, right?
A Yes, I did.
Q You also say, He told me, Petey told me, he said Petey, the guy upstairs didn't sanction any of these guys getting straightened out. You then say, Without a doubt. Vinny then says, I told them, and then you respond, But youse got the okay. Right?
A Correct.
Q So you then continue on line 30, page 10, for that you

had -- you had the okay for that. Had no okay as far as making captains, I went along with whatever youse did, I went along with. Correct?

A Correct.

Q Now, you are not -- do you know how many captains Vinny actually made?

A Only what he told me.

Q Do you remember how many he told you he made during the time that he was the acting boss on the street?

A He told me he made Nicky Santoro captain, he made Dominick Cicale a captain, he made PJ a captain, Mikey Nose acting boss.

Q But not a captain. Michael Nose was acting boss, right?

A Right. He went right from a Wiseguy to acting boss, that's correct.

Q So Mr. Basciano was the acting boss of the Bonanno Family for approximately ten months, correct?

MS. MERKL: Objection.

MR. JASPER: Well --

A Yeah, something like that.

THE COURT: Wait, wait. Objection.

MS. MERKL: Objection to -- it's -- he is asking for speculation.

THE COURT: Sustained.

BY MR. JASPER:

Q Mr. Basciano was made the acting boss sometime around

February 2004, yes or no?
A That's fair to say, February, March.
Q And Mr. Basciano is arrested by the federal government November 19, 2004, in that area; does that sound right?
A That sounds right.
Q So Mr. Basciano is the acting boss for approximately ten months, nine or ten months; is that correct?
A Fair to say.
Q Now, in nine or ten months, Mr. Basciano made only three captains, correct?
A Correct.
Q You just gave us their names.
A Correct.
Q And Mr. Basciano informed you before what his intentions were with respect to those three people who were made captain that you just spoke about, correct?
A That's not correct.
Q Well, you learned about it, right?
A After he did it, after the fact.
Q And you learned about it because messages were sent in to you, right?
A Correct.
Q And you didn't say, I don't want that person to be captain, correct?
A That's correct. I left it alone. I was preparing for my

trial, and I could care less what he did.
Q You were preparing for your -- the trial that you were going to trial on regarding the seven murders?
A That's correct.
Q And did you just tell us that you could care less about what he did?
A At that point whatever he did putting himself as acting boss, I didn't care at all. I wanted to concentrate on my case.
Q So you just, you were satisfied to let Mr. Basciano --
A Whatever he did I went along with.
Q You had the power to change anything at any time; isn't that right, sir?
A That's correct.
Q If you felt that a grievous mistake had been made by Mr. Basciano, you could change that very quickly, correct?
A I could have, but like I said, I don't want to keep confusing the family.
Q Now, this confusion that you spoke about in the family, that's the confusion -- there was confusion that already had been created by the federal government arresting any number of your associates' ranking members, correct?
A No. The confusion was Vinny Basciano making captains, making guys that wasn't around for eight years, making guys that just come out of prison to wait five years before they

become a Wiseguy in the Bonanno Family. He broke every one of those rules, did whatever he wanted.

Q In breaking every one of those rules, you didn't think it was important to correct that?

A Not at that time. I was fighting for my life and I was disgusted.

Q You were disgusted?

A Correct.

Q You weren't disgusted when Mr. Basciano delivered $60,000 to you, however; is that a fair statement?

MS. MERKL: Objection.

THE COURT: Sustained.

MR. JASPER: Now, your Honor, I would like to play clip 3, which occurs at page 11.

(Recording played.)

THE COURT: Before you ask your question, let me just advise that we are going to try to reestablish the audio for the room at a break.

MS. MERKL: Your Honor, I think that it's just that it's on the ELMO. It was working prior to switching it to the ELMO.

THE COURT: I'm sorry.

MS. MERKL: I think the output is on to the ELMO at the moment.

THE COURT: No, it's on the laptop.

MS. MERKL: I'm sorry, your Honor. It worked before we switched to the ELMO.

THE COURT: Well, it's not working now, and we have to figure out why that is.

Okay. Go ahead. I'm sorry to interrupt.

MR. JASPER: Thank you, your Honor.

BY MR. JASPER:

Q Now, on page 11, you are saying, You made Dominick. I don't know Dominick. Took your word on it. Good man, Bo.

Do you see that?

A Yes, I do.

Q And then on page 12 Mr. Basciano says, Good. I -- I vouched for him. You say, Now I hear things. I know you vouched for him. Now I know you are talking about Dominick.

Now, you said you hear things. Are you beginning to hear things about the tension between Dominick and Michael Mancuso?

A Correct.

Q Now, you then say to Mr. Basciano, and this is regarding the Randy Pizzolo murder, You used not Dominick, what's his name, Anthony Aiello. No. You used Dominick to clip Randy and Joe Gambina, right, Joey Gambina.

And he said, No, all BS. I was all F'ing no. It's all they -- I don't know what happened there. I'm not sure exactly what happened there.

And then, can you read what occurs on that after what happened there? What does the transcript say?

A But I gave the order.

Q Now, you listened to this tape for some time?

A Yes.

Q Several times, correct?

A It's fair to say.

Q And in the presence of government personnel?

A Correct.

Q And you hear the word "order" there?

A I believe so.

Q You believe so?

A Yes.

Q What do you mean by that?

A That's what I hear.

MR. JASPER: Your Honor, could I just have line 9 through 12 played again, on page 12.

Q But when you listen to this, Mr. Massino, I would ask you just to listen especially focused on that area that says, But I gave the order.

A Okay.

(Recording played.)

MR. JASPER: I'm sorry, your Honor. We have to play that entire clip.

Mr. Massino --

THE COURT: Excuse me?

MR. JASPER: We have to play the entire clip, your Honor.

Q But when that clip is played, Mr. Massino, I would just ask you to focus on the last line in page 12, okay. Thank you.

A Thank you.

(Recording played.)

BY MR. JASPER:

Q Now, Mr. Massino, my question to you is: In that last line on page 12 at line 12, did you hear, I'm not sure exactly what happened there, but I gave the okay. Did you hear that?

A I heard, I gave the order.

Q Now, when you were back in -- on November 23 in the bullpen, Mr. Basciano told you that he had given the okay or the order?

A With what?

Q Regarding Randy Pizzolo.

A In the bullpen it was never spoken about.

Q Well, I'm sorry. On December 12 at the codefendant meeting?

A December 12?

MS. MERKL: Objection, your Honor.

THE COURT: We had no codefendant meeting December 12.

Q I'm sorry, December 2 or 3.

A That's possible, the end of November, the beginning.

Q My question is: Which do you recall Mr. Basciano saying to you about the Randy Pizzolo murder on December 2 or 3? Do you recall him saying that he okayed it or ordered it?

A "I killed Randy Pizzolo," or "We killed him."

MR. JASPER: Now, your Honor, could we move on to clip number 4, which occurs at page 12.

(Recording played.)

BY MR. JASPER:

Q Now, Mr. Massino, let me ask you this question: You don't know whether or not Vinny Basciano gave the okay when he was on the street to kill Randy Pizzolo, correct?

A Correct.

Q You only know what he is telling you, right?

A That's all I can go by, correct.

Q Now, what he is saying to you at the bottom of page 12 and carrying over to page 13 is you have to hope that he gets back out on the street so that he can get money to your family; is that correct?

A Correct.

Q And you are telling him that you don't care about that, right?

A Correct.

Q Then Mr. Basciano says to you, Randy was an F'ing jerk off, Bo. Do you see that?

A Line 14?

Q Yes, sir.
A Correct.
Q And then on line 15 you say, Yeah, but did it warrant -- wait a minute, did it warrant the clip?
So what you are asking him then right there is was there a justification for the murder of Randy Pizzolo, correct?
A Correct.
Q And that means a lot to you, because if in your mind the murder or the clip, as you say, was warranted, then it was justified --
MS. MERKL: Objection.
THE COURT: Sustained.
Q -- in your mind?
A The.
THE COURT: Wait, wait.
THE WITNESS: Excuse me, your Honor.
THE COURT: Sustained means you don't answer.
THE WITNESS: Okay.
THE COURT: Is there another question?
MR. JASPER: Yes, your Honor.
BY MR. JASPER:
Q You say, Yeah, but did it warrant, warrant the clip, right?
A Right.
Q What did you mean when you said, Did it warrant the clip?
A Did it warrant to murder him. Clip means this.

Q Indicating for the record a movement.
A That's a gun. He doesn't want him to clip him.
Q And so in line 15 on page 13, are you asking Mr. Basciano was there a reason for this?
A I'm asking him if there was a reason for it, yes.
Q And he then goes on to tell you about an incident that occurs where Mr. Randy Pizzolo has taken a pistol to a -- an establishment?
MS. MERKL: Objection, your Honor, to the phrasing.
MR. JASPER: I will rephrase it, judge.
THE COURT: All right.
Q Do you see line 17?
A Yes.
Q It says, I tell you what, he goes into Villa Sonoma.
Have you ever been to Villa Sonoma?
A I never heard it of it.
Q Do you even know if the name of that place, Villa Sonoma, is accurate?
A Never heard of it, don't know.
Q Drunk with an F'ing pistol.
Now, to you, would that constitute a reason to harm Randy Pizzolo?
A It all depends on the circumstances.
Q So you would have to know more, right?
A Correct, not just because he says it.

Q Because you don't know if it's true or not, right?
A That's true.
Q Then you say, So why didn't you chase him? And then he says, He is a dangerous F'ing kid that doesn't F'ing listen. He talks stupid, he acts like a F'ing jerk off. He is an F'ing -- he is just an annoying F'ing kid.
When Mr. Basciano is saying that to you, do you also believe that those are reasons that are being offered?
MS. MERKL: Objection.
THE COURT: You may answer.
A No.
Q Now, you are saying later on that -- you give a hypothetical. You say, Say Michael finds out and Anthony -- that's Anthony Rabito?
A That's correct.
Q Now you causing dissention in the family. Now, if they do what they want to do, now what do we have? We have three different families. Right?
A Correct.
Q But at this point in time during the conversation you don't know what Michael or Anthony Rabito know, correct?
A Correct.
Q And all you know about the order being given is what you hear from Vinny Basciano, right?
A Correct.

Q Beyond that you have no personal knowledge?
A Correct.
Q Now, on line 6 through 8 Mr. Basciano says, Michael is not going to do anything. Michael is not going to do an F'ing thing. And then you say, Michael is waiting to hear from me.
Now, you had been in communication with Michael Mancuso?
A Yes.
Q Through messages, right?
A That's correct.
Q One of those messages came from Tommy Lee?
A Tommy Lee.
Q And another message came from your daughter, I think?
A That's correct.
Q And was there a message also from Vic Guiliani regarding Michael Mancuso?
A It's possible.
Q And all of those messages indicated that there was trouble out on the street in the Bonanno Family?
A Something wasn't right, that's what it was telling me.
Q Something wasn't right, and that something had to do with the relationship between Dominick Cicale and Michael Mancuso, correct?
A Correct.
Q Now, at the time that you are sharing these messages, is

this in December, November, December of 2004?

MS. MERKL: Objection, compound.

THE COURT: Sustained.

Q Is it in November of 2004?

A I don't recall.

Q Is it in December of 2004?

A Yeah, I would say so.

Q Now, at the time, in December of 2004, Michael Mancuso has a higher rank -- does he have a higher rank than Dominick Cicale?

A Vinny made him the acting boss of the Bonanno Family, yes.

Q So the answer is yes, Michael Mancuso is of higher rank than Dominick Cicale?

A That's correct.

Q And Michael Mancuso had been in the family for how long?

A What do you mean, as a Wiseguy?

Q As a Wiseguy.

A Sometime maybe late '90s, mid-'90s.

Q So Michael Mancuso is a Wiseguy for over ten years in the Bonanno Family, right?

A Roughly.

Q And do you know how long Dominick Cicale has been around the Bonanno Family?

A That he has been around or been a Wiseguy?

Q Well, let's start with first around.

A Early 2000.
Q As a Wiseguy?
A 2003.
Q So Dominick Cicale has not been a Wiseguy for very long, right?
A Correct.
Q Barely two years?
A It's fair to say.
Q Now, you then say in line 9, Michael is waiting to hear from me. Right?
A Right.
Q Now, Michael is waiting to hear instructions from you, Joe Massino, the official boss of the Bonanno Family, correct?
A Correct.
Q He is not waiting to hear from anybody else, right?
MS. MERKL: Objection.
THE COURT: Sustained.
Q He is waiting to hear from you as the official boss?
MS. MERKL: Asked and answered.
THE COURT: Sustained.
A Correct.
THE COURT: When I say sustained, you don't answer.
THE WITNESS: I'm sorry, your Honor.
THE COURT: I'm sustaining an objection. You don't answer.

THE WITNESS: Okay.

THE COURT: You wait for me to rule. And if you have a question, you can ask should I answer that, so if you are unclear.

THE WITNESS: I'm sorry about that.

THE COURT: Go ahead, Mr. Jasper.

MR. JASPER: Thank you, judge.

Now, could we hear clip five, starting at line 14, page 14.

(Played recording.)

BY MR. JASPER:

Q Now, go back to page 14, line 14 of that clip again. Mr. Basciano is saying, Well, listen, I sent word out to bump up Louie Electric. You and I had the conversation. And you say yes.

Do you see that?

A Yes, I do.

Q So Louie Electric is somebody that Vinny Basciano had promoted or wanted to promote -- withdrawn.

Louie Electric is someone who Vinny Basciano promoted to captain, correct?

MS. MERKL: Objection.

A Correct.

THE COURT: What's the objection?

MS. MERKL: How does he know what Vinny Basciano did?

THE COURT: Sustained. The jury will disregard the answer.

BY MR. JASPER:

Q Would you read line 14 for me, Mr. Massino.

A You want me to read it?

Q Yes, sir.

A Well, listen, I sent the word out to bump up Louie Electrician, you and I had the conversation.

THE COURT: Now, that was a statement by Mr. Basciano. The witness is reading it, but it's Mr. Basciano's statement.

MR. JASPER: Yes.

THE COURT: All right. Just want to make it clear.

Q You and I had the conversation.

Did you have a conversation with Vincent Basciano about bumping up Louie Electric?

A Yes, I did.

Q On line 18 Vinny Basciano says, I say bump him up. Line 19 you say a hundred percent. Correct?

A Correct.

Q So are you agreeing there that Louie Electric should be bumped up to a captain, yes or no?

A Yes, I did.

Q I'm sorry?

A Yes.

Q Joey Gambina, I said straighten him out. Dominick wants to

put him on hold.

Those are words being used by Mr. Basciano on line 14, correct?

A What line?

Q Line 20, I'm sorry. Page 14, line 20.

A Oh, all right.

Q Joey Gambina, I said straighten him out. Dominick wants to put him on hold.

A Correct.

Q Then you say, I think what we should do right now, my opinion, is to leave everything on hold.

And by that did you mean no new members should be made or inducted?

A Everything, correct.

Q Then you say on line 26, at page 14, Until we see where we are going, until -- let me get off the floor now.

By that do you mean that you want to see what is going on or find out what's going on out in the street once you get back down to the eighth floor?

A I knew I wasn't going back down. I just said that.

Q So you are telling Vinny Basciano that you are going to go back to the eighth floor but --

A Well, I didn't know definite, but I did say it, yes.

Q Now, the eighth floor is where Joe Cammarano, Sr., is, right?

A No, it's not the eighth floor. It's the fourth floor.
Q Back on which floor were you going to be going to?
A Fourth floor.
MS. MERKL: Objection, speculation.
THE COURT: Sustained.
Q You are telling Mr. Basciano that you want to get off of the SHU, right?
A If I get -- if I go back downstairs I'm going back to my floor, which is the fourth floor, G42.
Q Who is on that floor from the Bonanno crime family?
MS. MERKL: Time frame?
MR. JASPER: January 3, 2005.
MS. MERKL: How does he know who is on the floor? He is not there.
THE COURT: Sustained.
BY MR. JASPER:
Q Let me ask you this question, Mr. Massino: You say until we see where we are going, right?
A Correct.
Q Let me get off the floor now. Right?
A Correct.
Q You are not getting any messages in the SHU; is that right?
A Correct.
Q So you are in effect telling Mr. Basciano, Let me get off of the SHU so I can get messages.

Is that what you are saying?
A To find out what was going on, correct.
Q And to find out what was going on you have to pass messages, right?
A Correct.
Q Now, you're telling him, on line 31, You can't call shots from here because what's going to happen. And that's the reason why when I came in what I did was I left the panel.
Now, when you said you can't call shots from here, what are you talking about?
A When you are in the hole it's very hard to call shots from the hole.
Q And it's hard to call shots from the hole because?
A It's just -- it's tough.
Q Then you say, back on page -- on page 15, You can make guys. You can't kill nobody unless all three, they agree, and you can't make captains.
But captains were made, correct?
A Correct.
Q And captains were made and you were notified at some point who those people were, right?
A After the fact, correct.
Q But you were notified, correct?
A Yes, I was.
Q So you were being kept abreast of what was happening on the

street?

MS. MERKL: Objection.

THE COURT: Sustained.

Q Well, you were receiving messages from Mr. Basciano?

A Yes.

Q And those messages involved the conduct of the family?

A Correct.

Q The Bonanno Family, right?

A Correct.

Q And then at the bottom of that page, 15, at line 31, Mr. Basciano is saying to you, What I did, I tried to do, Joe, I tried to give a structure, because everybody was all over the F'ing board.

Do you see that?

A Yes.

Q What I did by me taking the rings I anointed myself through you as acting boss, right?

A Correct.

Q So he is saying that he was the acting --

MS. MERKL: Objection, your Honor. Mr. Massino's understanding, not what he is saying.

THE COURT: Sustained. Sustained.

Q Your understanding from this is that Mr. Basciano is saying that through you he is the acting boss of the Bonanno crime family, yes or no?

A After he did it he told me, yes.
Q And you decided, you decided not to undo that, right?
A Correct.
Q Because you didn't want to confuse the borgata, you didn't want to confuse the family?
A Correct.
Q You felt that it was in the family's best interest to let Mr. Basciano continue as the acting boss, yes or no?
A No.
Q You did not?
A No.
Q You did not think that it was in the best interest, but you did not change it?
A That's correct.

MR. JASPER: Your Honor, could we now hear clip six?

THE COURT: Beginning on page 16?

MR. JASPER: Yes, your Honor.

THE COURT: All right.

(Recording played.)

BY MR. JASPER:
Q Now, Mr. Massino, going back to page 16, you are again telling Mr. Basciano, you are telling Mr. Basciano that Randy you would have chased him, correct?
A What line?
Q Sorry, line 30.

A Correct.
Q Just chase him. Say listen, you are with us. This is your family here. Don't come around. I want you, I will send for you. Just chase them. When you clean your act up we will take you back. To kill the guy, it's crazy, because now you don't know talk on the street, now maybe Dominick heard about this, Joe Gambina. You know I get pretty good information.
At that point what you yourself are saying is that you get pretty good information.
You are talking about information about Joey Gambina?
A Correct.
Q And you are referring to the fact that Joey Gambina may have had a drug problem?
A Correct.
Q And you are saying that your concern here is that as a drug user he might talk about work that was done for the family?
A Correct.
Q That would be a problem, right?
A Correct.
Q Now, you have had -- do you know who Tommy Pitera is?
A I believe it's Tommy Karate.
Q He is also known as Tommy Karate? You know who Tommy Karate is?
A Correct.
Q Did Tommy Karate have a drug problem?

MS. MERKL: Objection, relevance.

THE COURT: Sustained.

Q Now, you are talking also about Joey Gambina, and you are referring to the fact that Gambina may have had a fight with his father; is that correct?

A That's correct.

Q Now, I would like you to move over to page 18.

Mr. Basciano, on line 7, page 18 is saying to you, Listen, I learned one thing from you. There is always two sides to a story.

You answer, Three sides. You know, Massino, you say, Mine, yours, and the truth.

Did you ever tell that to Mr. Basciano?

A Yes, I did.

Q Now, when Mr. Basciano says that, line 12 page 18, Right, and this kid over here, could we let it wait longer, do we have to do him? No, absolutely not. Massino, No, leave it alone.

By that you mean Gambina being inducted, is that what you are referring to there?

A That's correct.

Q Basciano at line 16 says, Leave it alone. Dominick even said leave it alone. But as far as Louie the Electrician, as far as Louie Electric, at this point it's a good move.

Is Mr. Basciano asking you there --

MS. MERKL: Objection.

THE COURT: Sustained.

Q Is it your understanding that Mr. Basciano is asking you to keep Louie Electric as a captain?

A Not to keep him but to promote him through to captain, and I agreed.

Q You agreed?

A Yes, I did.

Q And at line 21 --

MR. JASPER: Your Honor, we have to have -- since we can't go -- we can't stop and start, this clip has to be played again up until this -- until line 22.

THE COURT: Well, in the future if there is a part of the recording that you want the witness to pay particular -- and the jury -- to pay particular attention to, just say so in advance so we don't have to go through it again. It's a technical problem. So if you can do that, it will move things along a little more smoothly.

MR. JASPER: I will, your Honor.

THE COURT: Okay. Let's listen again then.

(Recording played.)

BY MR. JASPER:

Q Mr. Massino, at line 21 do you hear the word "order," and "I order"?

A Yes, I do.

Q Now, you say, at line 31, Michael Nose says he ain't

moving, right, until he hears from me.

MS. MERKL: Your Honor, if Mr. Jasper could just read the voice attributions rather than just reading the transcript without no voice attributions, it would clarify the record.

THE COURT: Yes. Thank you.

Q On page 31, Massino: Michael Nose says he ain't moving.

A Excuse me. Let me find the page a minute, 31?

Q Thirty-one.

THE COURT: It's on page 18 to 19, right?

THE WITNESS: Page 31, your Honor?

THE COURT: No. Line 31 on page 19.

THE WITNESS: Excuse me?

THE DEFENDANT: Page 18.

A Page 18 or 19?

Q Page 18, line 31.

A Okay.

Q Massino, Michael Nose says he ain't moving. Basciano, right. Massino, until he hears from me. Basciano, right.

Now, you are saying again that you have in some way been communicating with Michael Mancuso, correct?

A I haven't been.

Q Well, you are communicating --

A I got a message that he ain't moving, he is waiting to hear from me.

Q Michael Mancuso sent you a message --

A Correct.
Q -- saying he is waiting to hear from you.
A Correct.
Q And he was waiting to hear instructions from you?
A I guess that I put Louie Electrician as a captain. Am I okay in making these guys?
MS. MERKL: Objection to what Mr. Mancuso was waiting on.
THE COURT: Sustained.
Q Well, all you know is that Michael Nose is waiting to hear from you, right?
A Correct.
Q And you are not sure what it's about?
A Correct.
Q But it has to do with the conduct of the family?
MS. MERKL: Objection.
THE COURT: Sustained.
Q It has to do with something that Michael Mancuso was involved with, right?
MS. MERKL: Objection, your Honor.
A No, not really.
THE COURT: Wait. Sustained.
Q You say, I can't talk up here, on line 4.
Line 5, Mr. Basciano agrees with you, correct?
A What page?

Q Nineteen.
A Correct.
Q Now, do you see line 9 on page 19?
A Yes, I do.
Q And I'm going to read the attribution, what's attributed to you at line 9. Massino, there is a lot of stuff out there, out there. Alfred said, There is a lot of tension. Here it's like any day anything could go off, and that's the last thing we want. We don't want -- we don't want a war.

Are those the words that you are attributing to Mr. Basciano, correct?
A Yes.
Q And is it fair to say that your concern right there is that a war might break out?
A I don't want to see nobody get killed.
Q That's a war, is it your concern that you don't want to see a war break out?
A That's correct.
Q Within the Bonanno crime family.
A Different factions, correct.
Q Different factions, right?
A Correct.
Q And is it your understanding from the messages that you are hearing that that's something that could occur?
A Any time nobody is listening you got to assume that's going

to happen at any time.

Q Well, your understanding was that at any time a war could break out?

A Correct.

MS. MERKL: Asked and answered.

A My opinion.

THE COURT: Overruled.

Q Now, line 15, Basciano, at page 19, What happened is you can't be afraid to take the top seat. Massino, No, without a doubt. I wasn't either.

And what is your understanding there that Mr. Basciano is saying to you about the top seat?

A That he made himself the acting boss and you can't be afraid. You got to do what you got to do.

Q Then you say at line 19 on page 19, Massino, But you got, you got to have the stick. Let them know you got a big stick, and when you have to, use it. You can't run this thing with fear.

Is that what you said?

A Correct.

Q Now, you have in fact run the family with fear at times when necessary, correct?

MS. MERKL: Objection.

THE COURT: Sustained.

Q Then on page 20, line 17, this attribution occurs for

Mr. Basciano. I believe Anthony, I believe Anthony, you know what I needed, I put Anthony there. My thing was he had gray hair. Ease the tension. Remember when I got there.

And then you say, Yeah, but you can't even talk. Try to even the step. Let him go on a sit-down.

Mr. Basciano at line 24 says, He doesn't want; and then at line 25, you, Mr. Massino, begin mocking, Er-er-er-er-er-er-er.

Now, right there, at that point in time in the conversation, are you saying or is it your understanding that Anthony Rabito was not a good choice?

A Not to run the family, no.

Q Well, he wasn't running -- was he running the family at that time?

A He was on the panel. He was a consigliere.

Q But was he running the family alone?

A He was supposed to be running with the panel, with him, Vinny, and Michael Nose.

Q But was he running the family alone is my question.

A Not that I'm aware.

Q The gray hair effect, was it your understanding that Mr. Basciano wanted somebody that was older?

A Somebody with gray hair, yes.

Q Most people with gray hair are somewhat older?

MS. MERKL: Objection.

THE COURT: Sustained.

Q Then at line 26 on page 20, Mr. Basciano says, You are right. Massino, You look like an F'ing boob. Twenty-eight, but I don't need anybody. And then at --

MS. MERKL: Objection, your Honor.

THE COURT: Sustained. Just read.

Q Basciano says, But I don't need anybody. Is that correct?

A Correct.

Q Then at line 29, you say, What you did could I have done. And then at 30 Basciano says, Yes, but there was nobody there, Joe.

Now, is it your understanding that in line 30 what Mr. Basciano was saying is that there were very few choices out there for him to put on the panel?

A That's what he is trying to tell me, correct.

Q Then on page 21, at line 25, the conversation turns to Joe Saunders' son. That's Joe Cammarano, Jr., correct?

A Correct.

Q And at line 25 Basciano says, Joe's Saunders', Joe Saunders' kid, by the way, this is a scared kid. Massino, Okay, I thought he was a good kid.

Basciano, He's a good kid, no, he is a good kid. I'm going to tell you what happened here. There is a kid, we are in a position that we look ridiculous, Joe. And these guys were out there doing whatever the F they wanted to do. And I

thought this kid would have been a good wake-up call for everybody because everybody had a bad thing to say about this kid.

Now, at that point in time in that conversation Mr. Basciano was referring to Randy Pizzolo?

A Correct.

Q At line 4 at page 22 Basciano says the following: Randy, Michael Nose told me bad things about he's a rat.

Do you see that?

A Correct.

Q And by "rat" he meant an informant?

MS. MERKL: Objection.

Q Was it your understanding that what Mr. Basciano meant in lines 4 and 5 was that Michael Nose had told Basciano that Randy Pizzolo was a rat?

A That's what he is saying, but I don't know if he told him that, correct.

Q Then you at line 7 say, Well, he shot his best friend in the back of the legs. Don't youse -- didn't youse want to straighten him out? Do you see that?

A Yes, I do.

Q Now, are you referring to an incident that occurred in Cafe on the Green involving Randy Pizzolo?

A That's correct.

Q And your understanding about those events was that Randy

Pizzolo shot someone in the legs?
A Supposedly shot his friend in the back of his legs.
Q And this was in the parking lot of a Wiseguy joint?
A That's correct.
Q And do you know who owned that Wiseguy joint, what family that place was associated with?
A His name was Joey Doors. He is a Wiseguy in the Gambino Family.
Q Did that incident create the need for a sit-down between someone from your family and the Gambinos?
A Correct.
Q And that occurred?
MS. MERKL: If he knows, your Honor.
Q If you know that occurred?
A I don't really know what time, no.
Q But as far as you know there was no punishment for Mr. Pizzolo regarding that Cafe on the Green incident?
A He was punished. He could never go back there anymore.
Q He couldn't go back to Cafe on the Green?
A Stay out of there.
Q But he was not chased, correct?
A That's correct.
Q Now, at the time that that incident occurred you were on the street, right?
A Correct.

Q And you heard about that, right?
A Correct.
Q And you didn't order that Randy Pizzolo be chased, correct?
A Correct.
Q And Randy Pizzolo, do you know what crew he was associated with at the time of that Cafe on the Green incident?
A He was around a Wiseguy by the name of Johnny Palazollo, a Bonanno soldier.
Q Was Johnny Palazollo heading up a crew at that time?
A He had associates around him, and Randy was an associate around Johnny Palazollo.
Q And that incident occurred sometime around 2002?
A I don't really recall when it happened. It happened.
Q I'm sorry?
A It happened.
Q But it was before your arrest?
A That's correct. I was in the street.
Q And then at line 11, page 22, Massino, Youse wanted to straighten him out, and I stopped it.

You are talking about Randy Pizzolo?

A Yes.
Q So what you are saying there is, youse, meaning Vinny Basciano, wanted to straighten out Randy Pizzolo?
A They tried to get the name in and I stopped it, correct.
Q And that word came in through a lawyer?

A It could have came in through a lawyer. At that time I was on the floor with Joe Saunders. It could have came through Joe Saunders, which is a captain in the Bonanno Family. He gets a visit every week from both sons. They are both Wiseguys in the Bonanno Family.

Or I could have got it downstairs when I'm on a legal visit. There was all Bonanno guys, lawyer visits, or visit, and they would send out to talk to me. So I said, know what we do, wait until we go up last, so we have a half an hour to talk.

Q Meaning that when the visits are over in the social -- in the visiting area, inmates are lined up?

A In other words, you got a big visiting room, maybe bigger than this. So they will say visits are over. Everybody leaves.

Who goes up front will get out quicker. We would go to the end. Maybe 30, 40, 50 people. So it takes time. You got one cop stripping you. You could be there for half an hour, 40 minutes, before you go upstairs. So you do have time to talk.

Q And that's because you are at the end of the line. The inmates, I think you said, are going in one at a time?

A Correct.

Q And they go into this little room, right?

A Correct.

Q And in this little room you are strip searched, right?
A Correct.
Q And then after that occurs then the guard comes out and asks for the next inmate to come in.
A Next, right.
Q So that whole process can take as much as a half hour or more, correct?
A That's fair to say, half hour.
Q At the back of the line you are talking about family business, yes?
A If somebody had to tell me something, yes.
Q So what you are saying is that any number of avenues, whether it was Joe C, or whether it was a lawyer's visit, or whether it was somewhere down waiting on the line to be strip searched, you found out about Randy Pizzolo's proposal and you stopped it, right?
A That's correct.
Q Now, at page 15, line 22, the following attribution -- the following is attributed to Mr. Basciano. I told the lawyer everybody, sometimes you get a bad student because the teacher didn't teach him right. And I gave this kid the benefit of the doubt, and I -- I told him. I said, listen to me, I'm your last F'ing stop. You F up with me.

Now, I want to ask you, you don't have any way of knowing whether or not Mr. Basciano ever told Randy Pizzolo

that this was his last F'ing stop, right?

A That's correct.

Q All you know is what Mr. Basciano is telling you, right?

A Correct.

THE COURT: Mr. Jasper, you said at page 15, line 22. You meant page 22, line 15?

MR. JASPER: Page 22, line 15, your Honor.

THE COURT: All right. Fine.

MR. JASPER: Your Honor, at this time could I have clip seven, which starts at the bottom of page 22, played?

THE COURT: Mr. Jasper, I think this would be a good time for us to take a ten-minute midmorning break, and then we will continue.

MR. JASPER: Very well, your Honor.

THE COURT: All rise, please.

(Jury exits.)

(Continued on the next page.)

THE COURT: Everyone may be seated. Ten past.

THE WITNESS: Thank you, your Honor.

THE COURT: All right. The witness may stand down. Do not discuss the testimony with anyone. We will resume in ten minutes.

THE WITNESS: Thank you, your Honor.

(Mr. Massino exited the courtroom.)

THE COURT: All right. We will take a ten-minute break.

(Recess.)

(Continued on the next page.)

THE COURT: Let's go.

(Recess.)

THE COURT: Let's go. All right. Where are the lawyers?

MS. MERKL: Your Honor, Mr. Brightman came over on the break, and apparently the problem was that something hooked up for the prosecution two, so we're now on prosecution one, and it works --

THE COURT: I got it.

MS. MERKL: -- in that position.

THE COURT: That's fine. Bring in the witness. Let's bring in the witness.

(Witness enters the courtroom.)

(Jury enters.)

THE COURT: Please be seated.

All right, Mr. Jasper. You may continue your cross-examination of the witness.

The witness is reminded that he's still under oath.

THE WITNESS: Thank you, Your Honor.

THE COURT: All right.

MR. JASPER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. JASPER (continuing):

Q Mr. Massino, I want you to take a look at page 22. I think that's where we left off, at the end of clip six that we had

listened to, you had said at page 11 --

A You mean line 11?

Q I'm sorry. Line 11, page 22, "Youse wanted to straighten him out and I stopped it."

See that at line 11?

A Yes, I do.

Q And then at line 13, Mr. Basciano says, "No, I was" -- unintelligible -- "no."

Now, I want to ask you this question, sir. Is it your understanding from what you see on line 13, Mr. Basciano is denying that he proposed Randy Pizzolo?

A Correct. That's what he's saying.

Q And it's your understanding that at that point in time in that conversation, Mr. Basciano is lying about that, correct?

MS. MERKL: Objection.

A Correct.

THE COURT: Sustained. Speculation.

MS. MERKL: Your Honor, we move to strike.

THE COURT: Yes, the answer is stricken.

BY MR. JASPER:

Q When you say, "Youse wanted to straighten him out," are you referring to Mr. Basciano?

A Yes.

Q At line 11 and --

A Yes.

Q And at line 13, on page 22, Mr. Basciano says, "No."
A Correct.
Q Now, can you tell us what is your understanding that Mr. Basciano is saying no to?
A He's changing up now. Now he's saying no. When I was on the floor, he saying words. He wanted to straighten him out, and I said no.
Q So is it your understanding that regarding Mr. Basciano's proposal of Randy Pizzolo, his saying no is, as you understand it, not truthful?
MS. MERKL: Objection.
THE COURT: You may answer.
A Correct.
MR. JASPER: At this time, I'd like to have clip seven played for the jury, which occurs at page 22, line 28.
(Audio played in open court.)
BY MR. JASPER:
Q Now, in this portion of the tape, at line 28, page 22, you're saying, it's the same -- Massino: "It's the same scenario. Eight years before you make" --
A Could you hold on one moment?
Q Sorry?
A Could you hold on one moment?
Q Yeah. Sure.
A Page 22?

Q Yes, line 28.
A Go ahead.
Q Massino: "It's the same scenario. Eight years before you make a guy. You put guys in that ain't even around.
Basciano: "I put" --
Massino: At page 23, "So you broke that policy. There's static out there with our friends over there."
Basciano: "No."
Massino: "So Vinny's breaking the chief's policy."
Basciano: "That's not the correct, Joe."
Massino: "It is, Anthony Aiello."
Basciano: "Anthony Aiello."
Massino: "He ain't around Baldo."
Now, from this segment of the transcript, is it your understanding that Basciano is saying Ace Aiello was around eight years -- your understanding?
A He's trying to tell him that, but he wasn't, as far as I know.
Q As far as you know?
A I checked on it.
Q You checked with who?
A Baldo Amato.
Q And as far as you know from this segment, Basciano is saying that Ace was around eight years, right?
MS. MERKL: Objection.

BY MR. JASPER:

Q That's your understanding?

A He said was around Baldo. I checked with Baldo, and Baldo said it's absolutely not true. He was not around.

Q So in this segment, Basciano is not -- your understanding is that Basciano is not saying he, Vinny, personally knew Aiello for eight years, right?

A Correct. He's trying to say that Anthony Indelicato, Bruno knew him.

Q And then on page 23, at line ten, Basciano says, "Wait. See, what I understood, okay? I knew him for two years, Bruno. Bruno, I don't -- I can't know for" -- unintelligible -- "years."

And then at line 14, you say, "Forget about Bruno."

And so, what you're saying there is you're not concerned about Bruno? You don't care how long Bruno knew Ace, right?

A That's correct. The guy that proposes him, he's supposed to be around you for eight years.

Q And then regarding Bruno or -- I'm sorry, regarding this situation with Ace and knowing someone for eight years before they're inducted into the family, at line 22, Massino: "When I spoke to Baldo, he wasn't around Baldo. Baldo, one thing I got to say about Baldo, he said, you're my guy. I'm with you."

With that, you mean Baldo is professing his loyalty to

you? Is that it?
A What he's saying is, if I asked him a question, he's got no reason to lie to me, and I never caught him in a lie prior to that.
Q And then Basciano says, "Absolutely true, Joe, at line 26, a thousand percent."
Then at line 27, Massino: "I wouldn't release nobody. That's all BS. So Bruno made all them stories up."
And are you saying there that Bruno does not tell the truth?
MS. MERKL: Objection.
THE COURT: Sustained.
BY MR. JASPER:
Q Is it your understanding that Bruno has lied in the past?
A Correct.
Q Then on page 24, you're saying at line 13, "I trust Baldo's judgment."
Is that a true statement by you?
A Yes, it is.
MS. MERKL: Objection; relevance.
THE COURT: I'm sorry?
MS. MERKL: Objection; relevance.
THE COURT: You may answer.
A Yes. I was close with Baldo Amato.

BY MR. JASPER:

Q And then 14, Basciano: "Yeah. Okay. All right."

And then, line 17, you say, "I wouldn't trust Frankie Lino's judgment."

Basciano: "Right."

Massino: "Frankie Coppa's judgment."

Right? You see that.

A Correct.

Q Frankie Lino was somebody who you had appointed a captain, I think you told us earlier?

A That's correct.

Q And Frankie Coppa was someone also who was a captain in your -- when you were out on the street, right?

A Correct.

Q And they were both top captains of yours?

A They were captains.

Q And they both now cooperated with the government, is your understanding?

A Correct.

Q Now, at line 28, you're saying, "Yeah, but these kids, I hear they all do coke."

What kids are you talking about?

A I'm talking about Ace, Joey Gambina.

Q And then on page 25 at line one, Basciano says, "No, no, no."

And then you, Joe Massino, at line two say, "I don't know. Okay? Okay?"

Now, my question to you is when you said you don't know, are you saying that you don't know whether or not Ace and Joey Gambina do coke?

A I was told they do. Me, personally? No, I don't. I don't know.

Q You have no idea?

A No.

Q And then at page four, you're saying, "The last name? What's the last name you want? Listen to what -- I talk to you like a brother. I don't want people talking that we clipped Randy. We killed Randy. You killed Randy."

Basciano says, "Nobody -- nobody knows that."

You say on line ten, "So did you read the paper?"

Then 11, Basciano says, "But first of all, we didn't do it."

You see that?

A Yes I do.

Q And then you say to him at line 12, "No. Did you read it? Did you read the newspaper article, what it says?"

And then Basciano at line 14 says, "Yes. Yes. Yes. Yes. Yeah. Fine. Because he F-ing -- because he worked for me, the kid. He was" -- unintelligible.

Is it your understanding in that attribution that Mr.

Basciano was saying that Randy worked in his -- in his -- Basciano's construction business?

A That's what I understood. Correct.

Q And then at line 23, page 25, you're saying, "Everything is going on me. I didn't give the order."

Basciano: "Right."

Massino: "I got nothing to do with it."

Basciano: "Right."

I would have just chased him.

MS. MERKL: Objection.

MR. JASPER: Massino --

THE COURT: What's the objection?

MS. MERKL: He didn't attribute that to the correct individual.

BY MR. JASPER:

Q Massino, at line 28, "I would have just chased him."

THE COURT: All right.

BY MR. JASPER:

Q Line 29, Basciano: "Right. None of us did it. That's the bottom line."

So is it your understanding there that Basciano is saying Randy wasn't chased, right?

MS. MERKL: Objection. Misstates the record.

THE COURT: Sustained.

BY MR. JASPER:

Q Is it your understanding that Mr. Basciano is saying Randy wasn't chased?

MS. MERKL: Objection.

THE COURT: Wait a minute.

MR. JASPER: Line 29, Your Honor.

THE COURT: Overruled. Can you answer that question.

THE WITNESS: Could you repeat that question, please?

MR. JASPER: Your Honor, could I have that question read back?

THE COURT: Yes, please read it back.

(Record read.)

THE COURT: At line 29 and 30?

MR. JASPER: Yes, Your Honor.

THE COURT: At line 29 and 30.

THE WITNESS: Page 26?

THE COURT: Twenty-five.

MR. JASPER: Page 25.

THE WITNESS: (Peruses document.) Correct.

MR. JASPER: Your Honor, clip eight begins at line 13, page 26, if we could play that.

(Audio played in open court.)

BY MR. JASPER:

Q Now, Mr. Massino, I'd like you to turn to page 34.

A (Complies.)

Q At line 15, Massino: "And the only way you can get a message out was through Tommy Lee, the only one, and he's a lawyer. Does he get a message right?"

Basciano: "I'm Getting -- I'm getting through my son now. I'm getting messages through my son."

Massino: "And then he says to me, if Patty gets out, Vinny wants to jacko him. So I look at him."

Basciano: "Yes, I did say that. I did say that."

So, does he know --

MS. MERKL: Objection.

BY MR. JASPER:

Q Massino: "So does he know what jacko means?"

Basciano: "No. No."

Massino: At line 27, says, "Okay. So I said to him, listen. Let's hope he wins the case."

Now, you see those attributions, sir?

A Yes, I do.

Q Now, at 21, are you referring to a message that your understanding came from Vinny Basciano?

A Yes.

Q And is it your understanding that Vinny wants to jacko him?

A That's correct.

Q And that's referring to who, sir?

A Patty DeFilippo.

Q And your understanding of jacko means what, again?

A Murder, kill him.
Q Well, Basciano says, "Yes, I did say that. I did say that."
25, "So does he know what jacko means?"
Basciano: At line 26, "No. No."
And then at line 27, Massino, you say, "Okay. So I said to him, let's hope he wins the case."
Do you see that?
A Yes, I do.
Q You're saying that you hope that Patty wins the case?
A Correct.
Q And if Patty wins the case, will he be out on the street?
A Correct.
Q And from what you have told us here earlier, you're saying that when Patty gets out on the street, he might be murdered?
A He wanted to murder him when he was out on the street, and I didn't go along with it.
Q My question to you, sir, is this --
A Go ahead.
Q -- you have told us jacko means to murder, correct?
A Correct.
Q And at line 27 on page 34 you say, "Okay. I said to him, let's hope he wins the case."
You're talking about Patty, right?
A Correct.
Q So my question to you is, if Patty wins the case as you

have said here at line 27, Patty might be murdered?
A No.
MS. MERKL: Objection; calls for speculation.
A No, didn't mean that.
THE COURT: Sustained.
BY MR. JASPER:
Q Is it your understanding that if Patty wins the case -- your understanding -- he might be murdered?
A No.
THE COURT: I'm sorry, just so -- clarify this for the jury. Who are you talking about, when you said, so I said to him, listen, let's hope he wins the case. Who's him?
THE WITNESS: Hoping that Patty would win his case.
THE COURT: Who was it said to?
THE WITNESS: I was saying it to Vinny Basciano. I was talking to him, Your Honor.
THE COURT: But you were discussing a conversation that you had with someone else, is that right?
THE WITNESS: We were talking about Patty DeFilippo.
THE COURT: Go ahead.
BY MR. JASPER:
Q And in 27, I think you just told us that you're saying to Vinny Basciano, "Let's hope that Patty wins his case," right?
MS. MERKL: Objection; asked and answered, Your Honor.
THE COURT: Sustained.

BY MR. JASPER:

Q Now, would you turn, sir, to page 28?

A (Complies.)

THE COURT: I'm sorry. Page what?

MR. JASPER: Page 28, Your Honor.

THE COURT: Back to page 28?

MR. JASPER: Yes, Your Honor.

THE COURT: Go ahead.

BY MR. JASPER:

Q At line 24, Basciano is saying, "I would have loved to come down on your floor."

Massino: "Put me here. You're not on sep from me."

Sir, is it your understanding from what Mr. Basciano is saying in line 24 that he wants to be down with you on whatever floor you're sent to?

A G-42. Correct.

Q And that's your understanding?

A Correct.

Q Vinny is saying he wants to be with you?

A Correct.

Q And at line 27, Basciano, "No. You know why? Because now -- because when you hear stories, I want to be there to correct them."

Can you tell us what your understanding is that Vincent Basciano was saying to you in lines 27 through 29?

A Anytime I would tell him something, it was always, no, it was this guy or it was that guy. It was never him. So he wanted to be on the floor with me, for when a message would come, that he could correct it.

Q And was it your understanding that from that comment, that Mr. Basciano was questioning the source of your information from the street?

MS. MERKL: Objection.

THE WITNESS: Everybody can't be wrong.

THE COURT: I'm sorry. You may answer.

A Everybody can't be wrong. It wasn't from one person. I was getting it from different captains, different people.

BY MR. JASPER:

Q Mr. Massino, did you hear my last question?

A What was it.

THE COURT: You can ask it again.

BY MR. JASPER:

Q Is it your understanding from this comment that Mr. Basciano makes that he is questioning the source of your information from the street, yes or no?

A Yes.

Q And then on page 29, at line three, Massino: "Yeah, well. You got to remember one thing, Vin. It's very, very -- ah -- a -- and I wish he wasn't here, but you got to see. Very frustrating when I got to get a message through a lawyer."

Basciano: "Yeah, Bo."

Massino: "I got to get a message from my daughter."

Basciano: "What are we going to do at this point?"

Massino: "No. No. I understand that, but you know."

You are indicating that you're receiving messages about the family through your daughter, correct?

A Correct.

Q And you're not happy about that, right?

A Not at all.

Q And those messages are coming in part from Alfred Altodona?

A That's correct.

Q And Alfred Altodona is your partner at your restaurant Casablanca?

A He's wiseguy in the Bonanno family, yes.

Q And he's also a wiseguy as well as your business partner?

A That's correct.

Q And Alfred Altodona is close to your wife and your daughters?

A Close do my daughter. My daughter works there.

Q Your daughter works at Casablanca?

A Yes.

Q So, he's passing messages -- that's your understanding -- to your daughter and she's coming into the MDC?

A He tried it. I told her to just shut him down. I don't want to hear it, not to involve you.

Q But you had received some messages from your daughter before you shut it down, correct, sir?
A Yes.
Q Now, on page 30, at line 11, page 30, you say the following, Massino: "There's no father and there's no son. You know my policy. Everybody broke my policy. And I don't mean to single you out. I'm more hurt because I made the rules. I'm the only F-ing guy that follows the rules."
Basciano: "What policy did I break, Joe?"
Massino: "Joe Saunders' son, acting captain."
Basciano: "I didn't do that. That was" -- unintelligible.
Massino: "I didn't say that, no. I'm talking about -- I'm talking about guys breaking rules."
Now the specific rule that you're talking about right there is about fathers and sons, right?
A Correct.
Q And Vinny Basciano and what was -- withdrawn.
You're not happy about the fact that Joe Sanders is on the panel and made his son an acting captain, correct?
A That's correct.
Q Now, Joe Saunders is Joe Cammarano, Sr. and Junior, correct?
A Correct.
Q And the elder Joe Cammarano -- the elder Joe Sanders --

made his son an acting captain in his own crew?
A That's correct.
Q And you're upset about that, because that shouldn't be, correct?
A That's correct.
Q That was not your policy?
A Correct.
Q And your understanding in this attribution is that Vinny Basciano is saying he didn't break that, that father-son policy. That wasn't on his watch, so-to-speak. Is that correct?
A That's fair to say.
Q And is it true?
MS. MERKL: Objection.
BY MR. JASPER:
Q As far as you know, your understanding, is it true that Vinny Basciano had nothing to do with putting the Cammaranos together as captain and acting captain?
A I really don't know who put his son there. I was told Joe Sanders, Sr. did it.
Q And the reason that you're upset about that policy is because if there's some kind of a conflict within that crew, the acting captain and the captain, if they're father and son, would be natural allies, is that so?
A The son's not going to go against the father, that's

correct.

Q Now, on page 35 --

A (Peruses document.)

Q -- at line 18, Basciano says, "Alfred was a little leary of Michael, too."

And then Massino says, "Who?"

And then Basciano, "That doesn't make sense. Alfred."

Who -- Massino: "Who? Who is Alfred seeing? Is he seeing Dominick?"

Basciano: "Alfred has been going to Joe. Alfred goes to Joe C."

Do you see that?

A Yes, I do.

Q Now, your understanding there that is that Alfred Altodona, your business partner and wiseguy, is going to Joe C and is talking to him about the family business?

MS. MERKL: Objection.

THE COURT: Sustained.

BY MR. JASPER:

Q What is your understanding in line 23 that Basciano was saying, "Alfred has been going to Joe. Alfred goes to Joe C."

A That's what Vinny Basciano says.

Q Do you know if that's true?

A No. But then he corrects it.

Q He says, at 26, "Alfred -- Alfred? No. Alfred goes to

Frankie Adono."

Who is Frankie Adono, sir?

A Frankie Adono is Joe Bessi was a captain in the Bonanno family. Frankie Adono was his acting captains, and that's who Alfred reported to, his acting captain, Frank Adono.

Q Now, at page 36, you say, line 18, Massino: "See? This is what I -- see, what you just said, that's exactly what I figured. There's something going on between Dominick and ah" --

Basciano: "Michael."

And is that, again, your understanding that there is some conflict between Dominick Cicale and Michael Mancuso?

A That's correct.

Q And you had heard that several times, is that correct?

A That's fair to say.

Q Then at line 23, Massino: "You say this, because Alfred turns around. Alfred says, tell your father Vinny is in his corner a thousand percent. So I don't know who -- where the trouble is."

And what is your understanding about that statement that you made?

A I don't really know what was going on with the family.

Q But you suspected that there was trouble?

MS. MERKL: Objection; speculation.

THE COURT: Sustained.

MR. JASPER: I'll rephrase it, Judge.
BY MR. JASPER:
Q Your understanding from everything that you're hearing up to this point in time in this conversation is that anything could jump off at any time in the Bonanno family, yes or no?
MS. MERKL: Objection.
THE COURT: Sustained.
BY MR. JASPER:
Q Twenty-seven, page 36, "I'm here absolutely. I'm here for you, Buddy."
You see that?
A Yes, I do.
Q What is Vinny Basciano saying to you there? What's your understanding?
MS. MERKL: Objection.
THE COURT: Sustained.
BY MR. JASPER:
Q What is your understanding of what Vinny Basciano is saying.
A He's telling me that he's here for me.
Q And your understanding of that is what?
A That he's here for me, that he supports me.
Q And then, at page 37, line two, Massino: "You're in my corner. Who's the enemy?"
Basciano: "Nobody. Nobody."

Again, what is your understanding there about what you're saying to Mr. Basciano?

A I'm asking who's the enemy.

Q And Mr. Basciano's response is?

A "Nobody. Nobody."

Q And then, you're saying at 12 -- well, withdrawn.

You say then, at line 23, "I'm going to tell Joe Sanders through his son. I'm going to put Jerry there. I want to know what's going first. Before I put Jerry, I want to know what's going on -- Before I got to get it through Joe Sanders, his kid, the only way."

What do you mean there?

A I just said that for conversation.

Q You just said that for conversation?

A Yeah. I made that up, correct.

Q You made that up, so that -- just to keep the conversation going?

A I didn't believe I was going back downstairs.

Q But so I understand this, you are saying, however, to Vinny Basciano, that you intend to go downstairs and get more information, is that correct?

A That's what I told him. That's correct.

Q And why did you tell him that?

A Because we was in a conversation.

Q (Nods head affirmatively.) And did you want him to have

some kind of understanding about what it is you were going to do when you went down to the floor?

A Well, he is telling me what he wanted to tell me. And I felt he was stroking me, so I stroked him back.

Q You felt Mr. Basciano was stroking you? By that, you mean you thought he was wasn't telling you the truth?

A No.

MS. MERKL: Objection.

A Telling me what he wanted to tell me.

THE COURT: Overruled.

BY MR. JASPER:

Q So what Mr. Basciano wanted to tell you, you just said -- Mr. Basciano wanted to tell you only what he wanted you to know? Is that what you're saying?

A As far as the family, captains and wiseguys, yes.

Q And in return, I think you just said that you also stroked Mr. Basciano?

A Back.

Q Back?

A Correct.

Q Meaning what?

A You were bullshitting me, so I'm bullshitting you, what's going on with the family.

Q And wiseguys do a lot of BS'ing to each other, sir?

MS. MERKL: Objection.

THE COURT: Sustained.

BY MR. JASPER:

Q In your 33 years of experience, is it your opinion that wiseguys BS each other quite a bit?

MS. MERKL: Objection.

THE COURT: Sustained.

BY MR. JASPER:

Q Well on page 38 --

A (Peruses document.)

Q Massino, at line ten, "And then I'll ask -- then make sure -- let's make sure both stories" --

Basciano: "All right. What do you want me to ask? Tell me, because" -- unintelligible.

Line 14, "Just ask what's going on."

Basciano: "Okay."

Massino: "What the F is going on out there?"

You see that?

A Yes, I do.

Q So you're trying to find out what is going on out on the street, is that correct?

A I said I was trying to find out what was going on in the street.

Q You said that, but in fact, you were really stroking Mr. Basciano?

A I didn't care what was going on in the street at that time.

Q You didn't care?
A No.
Q And that's because you had your cooperation agreement?
A Because I was cooperating.
Q You were cooperating. I'm sorry.
A Correct.
Q You didn't have an agreement, actually?
A That's correct.
Q And I think you told us earlier that wiseguys lie all the time?

MS. MERKL: Objection.

THE COURT: Sustained.

BY MR. JASPER:

Q Then Basciano at line 17 says, "The last time I heard" -- Line 17, page 38, "The last time I heard, remember one thing. Outside is like this. It comes in all distorted."

Massino: "Tell me about it."

Are you agreeing with Mr. Basciano's understanding that things come in from the outside all distorted.

MS. MERKL: Objection to Mr. Basciano's understanding.

THE COURT: Sustained.

BY MR. JASPER:

Q Well, Mr. Massino, when you say at line 20, "Tell me about it," what do you mean?
A Things do come back in disorder. You don't get the true

story.
Q And you don't get the true story for any number of reasons, is that correct?
MS. MERKL: Objection; calls for speculation.
THE COURT: Sustained.
BY MR. JASPER:
Q Do you know why you don't get the true story in messages?
A Basically.
Q Basically?
A Yeah.
Q And that's basically because wiseguys will lie, right?
MS. MERKL: Objection.
THE COURT: Sustained.
BY MR. JASPER:
Q Basciano, at line 21 says, "You haven't gotten one message right."
Line 22, Massino: "What do you -- what do you think? Listen to what stories are being told."
What did you mean by that?
A You can tell me whatever you want to. How do I know? I'm up here. You're going to tell me what you want to tell me. It could be the truth. And it don't have to be the truth.
MR. JASPER: Your Honor, could we hear clip nine, at page 38, line 26?
(Audio played in open court.)

BY MR. JASPER:

Q Now, Mr. Massino, going back to the bottom of page 38, line 26, Basciano, "Did you get the money, by the way? I sent your wife money."

Massino: "Yeah. I think she got 60."

Basciano: "Plus another ten."

Um -- that's $60,000 that's being referred to there?

A That's correct.

Q And the ten refers to ten thousand?

A Correct.

Q And at line ten, Basciano, "I got -- I gave them the tickets in the baskets, tickets to the play in the basket."

What's your understanding about what Mr. Basciano has said.

A That he put tickets in there for a play, in the basket.

Q That, along with the $60,000?

A Along with the money, 60,000, correct.

Q And that's sent to your wife?

A Correct.

Q While you were incarcerated?

A Correct.

Q And then on page 40, at line 1, Mr. Basciano: "65, Bo. We whacked that up. Is that still the same? Am I correct?"

MASSINO: "Yes, yes. Yeah. I thought we got 50 each."

What are you referring to there?

A He took a guy away from me by the name of Frankie Esposito. He was a bookmaker. When I had Frankie under me, I was getting 2000 for Christmas. He took him and we were getting 50,000.

Q And he was giving you a share of that?

A We would divide it up 50-50, that's correct.

Q And at page, at -- I'm sorry, line 11, page 40, you say, "So that's another thing they're talking about, uh, that Vinny is looking to make Bruno. He's going to put Bruno there, acting underboss."

Are you referring there to things that you have heard?

A Yes, I am.

Q Messages from the street?

A Yes.

Q And line 15, page 40, Basciano, "No. No.

16: "So listen to me. Vinny ain't doing anything."

You see that?

A Yes, I do.

Q And then at line 18, Basciano is saying, "Yeah, they're throwing shit in the game with me, that's not right either, though, Bo."

And your understanding of what Mr. Basciano is saying there to you is that people are not being accurate about him?

A That's exactly what he's saying.

Q And then, at line 27, you're saying, "I'm here. I gave my

life for this borgata.

Basciano: "Right. I know."

Massino: "Then I got to get f'ed like a chump, my money."

And right here, you're expressing unhappiness about the flow of money to you while you have been incarcerated?

A That's correct.

Q But that unhappiness doesn't include Mr. Basciano, correct?

A Correct.

Q It's other people who are doing things to you that is not -- you consider to be proper, right?

A They stopped my money, correct.

Q Based on your money?

A Correct.

Q They're messing with your money, essentially, right?

A Correct.

MS. MERKL: Objection.

THE COURT: Sustained.

BY MR. JASPER:

Q Individuals in the Bonanno crime family are not providing you with the proper amounts of money as you see, correct?

A Not as I see, as I'm supposed to get.

Q That you're supposed to get?

A Correct.

Q Right.

And then on page 43, Basciano at line ten is saying, "I make sure you come up with 6,000 on Christmas?"

Massino: Line 12, "This is why you got to tell me, because I learned something -- if I learn somebody tells me say, look, I've been like a dope. What else do we have?"

Basciano: "Via Oreto belongs to us."

Massino: "Okay."

Basciano: "Michael is buying a taxi cab stand."

Massino: "For a million dollars."

Basciano: "We won it. I won the beef, whacking up. I won the beef" -- unintelligible -- "whacking up the union. I told Sal, don't fight with this over here. And I use your expression, we sit down for a glass of club soda. The union belongs to us that way."

In these attributions, Mr. Basciano is -- your understanding is trying to make sure that you get a certain amount of money on Christmas from someone?

A That's correct.

Q And then what you're saying in line 12 is, you want to know about what is out there that the family has, so that you won't look stupid, correct?

A Correct.

Q And then the expression, "to sit down for a glass of club soda," means you don't want to have a meeting where nothing fruitful is going to come out of it, is that correct?

A No, you don't want to be bothered with a union if you're get to get a glass of club soda. You're not going to get anything out it. Why would you be bothered?

Q So you want to make sure you get your money?

A I was against unions.

Q Right?

A Correct.

Q And so what are you saying -- what are you saying -- what is your understanding about the glass -- what is your understanding of that's being said about sitting down for a glass of club soda, in line 19 through line 23?

A In other words, if you're not going to get anything from the union, why would you want to be bothered?

Q And that's something that you told Mr. Basciano over the years?

A Correct.

Q Now, are then on page 44, Massino, at line 14, "You see what he -- he told me about the war chest money? Vinny put a F-ing half amount -- half a month."

Basciano: "No. No."

Massino: "You know what my answer was to that?

Basciano: "No."

"Vinny wouldn't do that."

MS. MERKL: Your Honor, attribution?

BY MR. JASPER:

Q Massino: "Vinny wouldn't do that."

Basciano -- line 22, Massino: "Vinny is not about money."

Basciano: "No."

Now, in those attributions, are you saying that Vinny is not going to try to basically steal from you, is that what you're saying?

A If you had something coming from Vinny, he'll give it to you, correct.

Q And then in line 24, on page at page 44, you say, "I said your son hasn't got a story right yet. Talking about Dino, not Joey."

Basciano: "Dino. Right."

Now, you're referring to one of Joe C, Joe Cammarano's sons, correct?

A I'm talking about Dino. He's a wiseguy in the Bonanno family, that's correct.

Q You're saying he hasn't gotten a message right yet?

A Correct.

Q And you're saying that he's not getting messages right to his father, right?

A At that time, I was on the floor with Joe Sanders, and when Joe Sanders would get a visit, his son would tell him what was going on. He never got a message right.

Q And you were able to determine that from jail?
A Correct.
MS. MERKL: Objection.
THE COURT: Sustained.
BY MR. JASPER:
Q Your understanding was that those messages were not correct, right?
A Can I explain something?
Q Just -- do you understand?
A Yes.
Q (Nods head affirmatively.) And then on page 46, at line seven, Massino, "You get this guy -- you let this guy loose, he wants to kill every captain."
Basciano: "Yes. No. One" .
When you say "this guy, let this guy loose, he wants to kill every captain," are you referring to your brother-in-law, Sal Vitale?
A Correct.
Q And then at line 12, again on page 46, Massino: "He would have killed me in an F-ing heartbeat."
You're referring again to your brother-in-law, Sal Vitale?
A My underboss of the Bonanno family, that's correct.
Q And this is a person that you knew since he was eight years old?

A That's correct.
Q And then at line 24, Massino, "No, no, no. So George comes to me. George tells me, he said, listen, he says. I want you to know I'm here for you a thousand percent, this and that. And I thought he was talking funny, but I couldn't figure out. It took me to come in here and find out the move. I never knew Sal used coke."
Is that Sal Vitale that you're referring to?
A That's who we're talking about, Sal Vitale, my underboss of the Bonanno family, correct.
Q And you didn't know that he was using cocaine?
A No, I didn't.
Q And you found that out when you came into jail?
A At the co-defendant meetings, yes.
Q And the George that's being referred to there in lines 24 to 31, what George is that?
A George Sciascia, George from Canada. He was a captain in the Bonanno family.
Q And so, was it your understanding that George told you that your brother-in-law was using cocaine?
A No, George didn't tell me.
Q Who told you?
A Robert Lino told me that at our co-defendant meetings.
Q And then --
MR. JASPER: (Confers with Mr. Goltzer.)

BY MR. JASPER:

Q Referring to line 24, through 31 --

A What page?

Q I'm sorry. Line 24, page 46. Sorry.

A Okay.

Q When you say, "George comes to me, tells me, he said, listen, he says, I want you to know I'm here for you a thousand percent. This and that. And I thought he was talking funny, but I couldn't figure out. It took me to come in here to find out the move."

Now, this George is George Sciascia, correct?

A Correct.

Q And in this attribution to you, are you saying that you thought Georgie Sciascia was trying to make a move on you?

A Can I explain?

Q Well, the answer to that is yes or no. You can --

A No, not him, no.

Q In that attribution, can you tell us who it was who was making a move -- who you thought was making a move on you?

A At that time, counselor, I just came home from prison. I believe it was in February, March of '93.

I met him. We went to Rockaway, went in the park, and he tells me what happened with Barney. And I was confused, because I didn't know what he was trying to say to me. He was telling me that he would never make a move. He's in my corner,

him and Baldo. It became an issue.

When I got pinched and I got arrested, I was on the floor with Barney. Barney is a captain in the Genovese family. He tells me that they were going to make a move, John Gotti, the boss of the Gambino family, and Sal Vitale, the underboss of the Bonanno family. They were going to make a move on me. They were going to kill me.

Q And this Sal who was going to -- was your understanding was going to make a move with John Gotti to the kill you was your brother-in-law, right?

A That's correct.

THE COURT: Can we have a time frame?

BY MR. JASPER:

Q In what year?

THE COURT: Excuse me.

Can we have a time frame on that?

THE WITNESS: I got arrested, Your Honor, in 2003. Sometime in 2003, I was on the floor with Barney and he told me.

THE COURT: And when was this event that took place or allegedly took place with Gotti, Sr. and Vitale?

THE WITNESS: Well, I was in prison. And when I came home, John Gotti was in prison already. Otherwise, I probably wouldn't be sitting here today.

BY MR. JASPER:

Q And I was going to try ask bring out the time. Do you have the time frame on that, when --

A Well, I had to talk about, '89, '90. John Gotti got pinched, I believe about December of 1990, so prior to that. I came home in '92. If John was in the street, I believe him and my brother-in-law would have killed me, yes.

Q Okay. Would it be fair to say that after that period of time, was that -- when you came out of jail, you made a decision to put your brother-in-law, Sal, on the shelf?

A I had three decisions: Babysit him, break him or leave him there. I left him there.

Q And you left him there. This was even before you realized he was trying to make a move on you, correct?

A I didn't know nothing about that until ten years later.

Q But you put your brother-in-law on the shelf ten years before you found out about this move, right?

A I didn't put him on the shelf. I couldn't put him on the shelf, because he did things he wasn't supposed to do while I was in prison. So I said, we got to go forward. We can't look back, and I gave him a pass. Excuse me.

Q So you didn't put him on the shelf but you just kept an eye on him?

A That's correct.

Q And you kept an eye on him for several years from that

period of time until you were arrested?
A That's fair to say.
Q About 1992 to 2003, you kept a close watch on your brother-in-law?
A I kept an eye on him. I don't want to say a close watch. I kept an eye on him.
Q You wanted to know with who he was talking to in the family and who he was trying to get close to, correct?
A That's not correct. He was having a hard time with captains. So what I did is, I put TG there, which is a captain in the Bonanno family. I put Tony Green there, which is a captain in the Bonanno family.

And I gave him -- maybe at that time, I had 16, 17 captains, and I broke it up into three sections. Sal had so many captains. Tony Green had so many captains, and TG had so many captains, and they were reporting to me and let me know what was going on. So we had four captains reporting to Sal.
Q So that was an attempt to limit his exposure to the captains, correct?
A Well, this way, I would get stories correct. It's easier for him to have four or five captains than have 15 captains.
Q And the reason you could get stories correct is, you didn't feel you were getting correct stories from Sal, right?
A That's correct, counselor.

MR. JASPER: Now, Judge, if we could have clip ten

played? That's at page 48, starting at line 15.

THE COURT: We'll do that right after lunch.

Lunch is here for the jury. So we'll take 45 minutes for lunch. All rise for the jury.

(Jury exits.)

THE COURT: You may be seated.

(To the witness) Just stay there.

THE WITNESS: Yes, Your Honor.

THE COURT: All right. The witness may stand down.

I remind that you're not to discuss your testimony with anyone.

THE WITNESS: Yes, Your Honor.

THE COURT: Forty-five minutes.

(Witness exits.)

THE COURT: Okay, Mr. Jasper. We're about a little less than halfway through the January 3rd transcript. Do you have a sense of how long the process is going to take? In other words, how much longer the cross-examination will take?

MR. JASPER: Your Honor, I think we'll be here certainly most of the day, until -- we're breaking at three?

THE COURT: Yes.

MR. JASPER: Yes. I suspect that probably be on the stand until then.

THE COURT: And what about on Thursday? I want to get a sense of what we're doing on Thursday.

MR. JASPER: We'll be finished by Thursday. I would think Thursday morning.

THE COURT: All right. You know, we need to line up other witnesses.

MR. JASPER: Yes, sir.

THE COURT: So we can move adroitly through the government's case. So I just want to get a sense of that.

MR. JASPER: I understand, Judge.

If we carried it over to Thursday -- if we carried over to Thursday, I would think -- my hope would be that we would be finished hopefully by before lunch or by lunch.

THE COURT: All right.

Ms. Merkl?

MS. MERKL: We're not going to have somebody else here this afternoon, in light of those statements.

THE COURT: No.

MS. MERKL: I appreciate.

THE COURT: I wanted to make that clear. No reason to keep someone waiting in the lobby.

All right. We'll take 45 minutes for lunch. Thank you, everyone.

(Lunch recess.)

(Continued on the next page.)

AFTERNOON SESSION

(In open court.)

(Defendant present.)

THE COURT: All right. Let's bring in the witness please.

(Mr. Massino resumed the stand.)

THE COURT: Mr. Massino, you may be seated. We are not quite ready.

THE WITNESS: Thank you, your Honor.

THE COURT: You are welcome.

(Continued on the next page.)

(Jury enters.)

THE COURT: Please be seated.

All right. Mr. Jasper, you may continue your cross-examination of the witness.

The witness is reminded that he is still under oath.

THE WITNESS: Thank you, your Honor.

THE COURT: You are welcome.

MR. JASPER: At this time I would ask that clip ten, beginning at line 15, page 48, be played for the jury, your Honor.

(Recording played.)

CROSS-EXAMINATION

BY MR. JASPER (continuing):

Q Now, Mr. Massino, I ask you to turn to page 49, line 1. Ready?

A Yes. Excuse me.

Q "Basciano: You have faith in Vinny.

"Massino: Go ahead.

"Basciano: Okay, four or five years, if I hit the street, what do you want me to do?

"Massino: I put you back."

What is being referred to there?

A He was worried about when he would come out in four or five years, would he have the position. And I said, yeah, I put you back.

Q Position meaning what, sir?
A It could be a captain, it could be acting boss. We didn't talk about it. I said I will give you a position.
Q Anything, anything above soldier is that?
A Well, he ain't going to be a soldier. He will be a captain up, if anything.
Q If anything, right?
A Right.
Q And turning to page 51, line 17.
"Massino: Yeah, but who gave the okay to clip him? You did?
"Basciano: Michael."
What is your understanding there as to what Michael that is?
A Michael Nose.
Q Michael "Nose" Mancuso?
A Yeah, acting boss of the Bonanno Family.
Q As the acting boss of the Bonanno Family at that time, what is -- do you have an understanding at all about that?
A No, I don't, not at all.
MR. JASPER: Could we now, your Honor, hear clip 11 that begins on page 52.
(Recording played.)
Q Now, Mr. Massino, on page 52, at line 25, this is a statement that's attributed to you.

"Massino: All right. So, so, you are taking the same position with this Joey Gambina?"

THE COURT: What line is that, counselor?

MR. JASPER: 25.

THE COURT: Thank you.

BY MR. JASPER:

Q Page 52, ready?

A I'm ready.

Q "Massino: All right. So, so, you are taking the same position with this Joey Gambina that you -- how -- how do you know, you are that sure. Go ahead. Tell me.

"Basciano: I'm going to tell you how I feel.

"Massino: Go ahead. Tell me.

"Basciano: Okay. I understand it.

"Massino: No, no, not how you feel, how you know.

"Basciano: If we had to take all the guys in this outfit or these other outfits who were doing coke once in their life and we wouldn't straighten them out, we would only have six guys.

"Massino: If they only did it once, I go along, but my thing is we don't use them to do a piece of work. Anybody did work with us, as far as I knew, I forget -- as far as I knew, forget about Bruno, because Bruno is with his father. Anybody that did work with us."

Now, what you are saying in this is you don't have a

problem if someone, a Wiseguy, has used cocaine once in their life; is that correct?

A You could probably count that on one hand, counselor, yes.

Q You could count what on one hand?

A Them doing it only one time.

Q You are saying that drug use was a problem in the organized crime family that you ran?

A No.

MS. MERKL: Objection.

Q Is it your understanding, did -- sorry, your Honor.

THE COURT: Sustained. You can ask the question again.

Q Is it your understanding that drug use was a problem in the Bonanno crime -- in the organized crime family, Bonanno Family, while you ran it?

A I wouldn't say that.

Q Drug use was not a problem?

A No.

Q Is it your understanding that there were many individuals in the family who used cocaine more than one time?

A That's fair to say.

Q So your concern in this segment is, your current, is members, official members who were using drugs who might be used in murders?

A Correct.

Q And your position on that is that people will use drugs and shouldn't be involved in murders because they might talk?
A Correct.
Q Is it your thinking that they may not be disciplined and might be out of control because of their drug use?
A Especially if they are doing drugs with other people, they will talk.
Q Was that extended to alcohol also?
A Not as much as drugs.
Q Now, for you to feel this way, did you feel that drug use was a problem in the Bonanno Crime Family?
MS. MERKL: Objection. Objection, your Honor.
THE COURT: What's the objection?
MS. MERKL: To form.
THE COURT: Sustained.
MR. JASPER: I'm sorry, your Honor?
THE COURT: Sustained.
BY MR. JASPER:
Q Did you have an understanding that drug use was a problem in the Bonanno Crime Family?
MS. MERKL: Asked and answered.
THE COURT: Sustained.
Q Well, I think you indicated earlier that you would never utilize somebody who used drugs in a murder; is that right?
A If I'm aware of it, that's correct.

Q Well, Joey D'Amico, was he a drug user?
A Yes, he was.
MS. MERKL: Objection.
THE COURT: Overruled. The answer stays. Go ahead.
BY MR. JASPER:
Q Joey D'Amico was a shooter in the murder of Tony Mirra?
A Correct.
Q And you were aware of that at the time?
A No, I wasn't.
Q At the time you were a captain in the Bonanno Crime Family?
A I was a captain, and at the time when he gave the word to Al Walker I had no idea who he was going to use to kill Tony Mirra.
Q But you didn't know that Tony Mirra was a drug user?
A No, I didn't.
Q So your concern about Joey Gambina possibly being used in the Gambina -- I'm sorry, in the Pizzolo homicide, do you know if Gambina was actually used in the Randy Pizzolo homicide?
A From what I knew, from what Vinny Basciano told me, my opinion, yes.
Q But you have no personal knowledge of that?
A No, I don't, not at all.
Q All you know is what Vinny Basciano was telling you, correct?
A That's correct.

Q Now, when you say if they did it only once I would go along, but my thing is this is a -- you at page 53, line 3. If they did it, if they only did it once, I go along, but my thing is you don't use them to do a piece of work. Anybody did work with us, as far as I knew, forget about Bruno because Bruno is with his father, anybody did work with us.

Now, you knew that Bruno was addicted to cocaine at one point, correct?

A At one time, yes.

Q And Bruno is Anthony Indelicato, right?

A He is a Wiseguy in the Bonanno Family, that's correct.

Q And he had been used in a piece of work for the Bonanno Crime Family?

A Correct.

Q While he was using drugs?

A I don't know if he was using drugs at that point.

Q But in this particular segment, you say Anthony did work with us, as far as I know, forget about Bruno because Bruno is with his father?

MS. MERKL: Objection, misstates the record.

Q Mr. Massino, you see line 3 through 8, page 53?

A Yes.

Q Would you just read that for us out loud, sir?

A "If they only did it once, I will go along. But my thing is you don't use him to do a piece of work. Anybody did work

with us, as far as I know, forget about Bruno because Bruno is with his father, anybody did work with us."

Q So Bruno's father was Sonny Red?

A That's correct. He was a captain in the Bonanno Family.

Q He was one of the three captains, right?

A Correct.

Q Was it your understanding that while Bruno was with his father and using drugs, he did a piece of work?

A Yes.

Q And "piece of work" meaning murder, right?

A That's correct.

Q Now, also in the Bonanno Crime Family was a captain named Frankie Lino?

A Correct.

Q And Frankie Lino had a drug problem also at one point, correct?

A Correct.

Q And Frankie Lino is, your understanding, also did a piece of work?

A Yes.

Q So at page 53, line 12, you say, "I don't, I don't trust Massino. I don't, I don't trust that. That's, that's how I feel to me. That's weak courage. When a guy puts that in his nose, that's weak courage. That's how I feel."

Was that your feeling then, sir?

A Yes, it is.

Q And then on page 54, at line 7, the following is attributed to Mr. Basciano.

"Basciano: I sent out word for him, Joe Gambina thumbs up and to bump up Louie Electric. I sent it out. It went back to Michael. Michael says where did the message come from. Dominick says I'm not at liberty to tell you where it come from, but the other guy knows about it. He asked but he's, and then it's -- you say Massino, but he is at liberty to tell him. He is on the panel."

Now, is it your understanding there that that Dominick being referred to, is that Dominick Cicale?

A Yes, it is.

Q And the Michael in that attribution, 7 through 14, is that Michael Mancuso?

A That's correct.

Q And from that, is it your understanding that there is again this continuing conflict between Dominick Cicale and Michael Mancuso?

A Correct.

Q Now, turning to page 55, at line 19, this is attributed to you.

"Massino: The same thing. You took Petey Rabbit's crew away and you never asked me. You took TG's crew, you never asked me.

"Basciano: I took it away, I just gave them a different captain. That was going to be temporary."

Now, in that line, is it your understanding that Basciano did not take any crews away from Petey Rabbit?

A He took Petey Rabbit's son. He put Petey Rabbit's son on with Vinny Basciano. He took VK away from Frankie Coppa and he placed him under Vinny Basciano. He took guys away, money guys. He took Perry away from Richie Cantarella. He put the money guys on to him, and he gave the brokers to Nicky Santoro and whoever else.

Q You said he, being Vinny Basciano, took the money guy away from Perry?

A He took him away from Richie. Perry is a money guy.

Q Richie Cantarella was someone who was arrested by the federal government?

A Correct.

Q At the time that Perry was taken away from Richie Cantarella, was Richie Cantarella, to your understanding, under arrest?

A Yes, he was.

Q So what you are saying is that Mr. Basciano took Perry away from someone who was already arrested by the federal government, correct?

A Richie was arrested, correct.

Q And Richie cooperated, right?

A Correct.
Q So you wouldn't want Perry giving money to someone who was arrested by the federal government and the cooperator; is that a fair statement?
A No. You can't take anybody away without me saying it's okay. You just did what you want. That's what I'm saying.
Q It was something that you didn't want to change because you didn't want to confuse the family, right?
A Correct. Just give him to another captain.
Q Now, TG. TG also was arrested, right?
A Correct.
Q So TG wasn't out on the street administering the people in his crew, right?
A He was incarcerated, correct.
MR. JASPER: Your Honor, could we have clip 12 played, which appears at page 60, line 27.
(Recording played.)
Q Now, Mr. Massino, would you turn to page 63, please, 63, line 15. And this is a statement that's attributed to you at line 15 on page 63.
"Basciano: Bo, I would have taken them and put them into my office" -- I'm sorry, page 63, line 15.
"Massino: You know, if you want to go pick like he says to me one day, he says, Bo, you made a bad choice putting Vinny there. I said, listen to me, Patty, this ain't the right

time."

Now, the Patty that you are referring to in that attribution is Patty DeFilippo?

A That's correct, captain in the Bonanno Family.

Q And you are saying to Mr. Basciano, Bo, you made a bad choice putting Vinny there.

Do you see that?

A Yes, I do.

Q Are you saying that Patty is saying to you about your choice to put Vinny in the position of acting boss; is that your understanding, sir?

A As a captain, yes.

Q As a captain?

A At that point he was a captain.

Q And you said this is not the right time to talk about that?

A Correct.

Q Because you elevated Vinny Basciano to captain; is that right?

A Correct.

Q Do you remember what year that was, approximately?

A Later part of 2000.

Q And then sometime around 2002, Frankie Coppa and Frank Lino are arrested, right?

A Frankie Coppa was arrested in maybe the late '90s.

Q No, more recently, Frankie Coppa before he cooperated

against you?
A I don't know the year he was arrested, yeah, maybe 2000.
Q I'm sorry?
A Maybe the year 2000, 2001.
Q And then Frankie Lino got arrested sometime after him?
A Frankie Lino got arrested with me.
Q I think you told us then you were arrested in January of 2003, right?
A January 9, 2003.
Q Then around January 27 of 2004 there are over 25 Bonannos who are arrested, including Tony Urso and his panel, right?
A That's correct.
Q Turning to page 64, at line 6.
"Basciano: He told me he would support me out there. I walked to him and I said, let me ask you a question. And then you say, Massino, at one time he was looking to put your lights out."
Are you referring to Patty DeFilippo?
A Yes, I am.
Q When you say, "At one time he was looking to put your lights out," are you yourself, Joe Massino, telling Vinny Basciano that at one time Patty DeFilippo wanted to kill him?
A Wanted to kill him and Bruno, yes.
Q Had you at any time prior to that conversation warned Vinny Basciano to be careful about Patty DeFilippo?

A No, not at all.
Q But at this time you are telling him that at one time Patty wanted to put his lights out, meaning Vinny, correct?
A Correct.
Q As the official boss, did that concern you, that Patty wanted to kill Vinny Basciano?
A I stopped it.
Q At that time you were concerned, however, that Patty DeFilippo wanted to kill Vinny Basciano, yes or no?
A No.
Q You weren't concerned about that?
A No.
Q You were not concerned about one captain wanted to kill another member of the family?
A No, because he was complaining to me, counselor.
Q Now, on page 65, line 19, you say this.
"Massino: I told Bruno, when you get off parole, you sit down, we will talk a while. Next thing I know, you straightened him out."
Are you referring to Bruno there at that point?
A Yes, I am.
Q "Youse went against my wishes.
"Basciano: I asked you about it.
"Massino: No.
"Basciano: Yeah, word came back.

"Massino: No, no.

"Basciano: I sent word in to you, Joe.

"Massino: No, I never got it.

"Basciano: They came --

"Massino: You got to remember one thing, word come back to me and said, okay, it was clear.

"Basciano: Word came back to me and said, okay, it was clear.

"Massino: You got to remember one thing. Listen to me.

"Basciano: Did you get the word about all the guys I straightened out? Did you hear about all the guys' names? Unintelligible.

"Massino: No. What you are telling me, you got to remember one thing. Tommy Lee is a lawyer."

Now, is it your understanding in that segment that Vinny Basciano was telling you that he sent word to you, informed you of the men who were inducted; is that your understanding?

A Yes, it is.

Q And then you are saying, "You got to remember. Tommy Lee is a lawyer.

"Basciano: Right," at line 10.

Line 11, "Massino: So when he gives you a message, he is scared shit to talk. He won't talk in the room.

"Basciano: Right.

"Massino: He walks outside by the table, so he is scared. Bop, bop, bop, bop, bop. You F'ing playing with my head."

What did you mean when you said that?

A If he had to tell me something, serious, he wouldn't tell me in the codefendant room. He was worried about it being bugged. So we would go outside the codefendant room, and there was a big table and he would tell me what he had to tell me.

Q This is Tommy Lee, right?

A Tommy Lee, he is a lawyer, yes.

Q So he would tell you face to face outside, away from everybody else, what was going on in the family, correct?

A If he had to, correct.

Q Well, if he left the room to give you a message, you were interested in hearing that, correct?

A We don't leave the room all the time. It all depends on the message, what he had to tell me.

Q But you are saying there were times when you would actually leave that large conference room that you spoke about and go outside so that the people inside were not nearby; is that a fair statement?

MS. MERKL: Objection as to time of these motivations, your Honor.

THE COURT: Sustained.

BY MR. JASPER:

Q Well, Tommy Lee would pass messages to you, you told us that before, right?

A Correct.

Q And there were times when Tommy Lee would get up and talk outside the counsel room with you and pass you a message, right?

A That's correct.

Q And what you are saying in line 11 and 12 is that Tommy Lee was scared to talk about certain things in the counsel room.

That's what you say here, correct?

MS. MERKL: Objection to form.

Q Is it your understanding that what you say on line 11 and 12 is that Tommy Lee was scared?

A Correct.

Q Is it your understanding that what Tommy Lee was scared about was the passing of a criminal message; is that correct?

A Correct.

Q Then Basciano says, at line 20, "I told him about Allie. I told him about Allie.

"Massino: I never got it.

"Basciano: He says that he said okay. He told me that you said okay."

And that's reference to Tommy Lee?

A The reference to Tommy Lee, yes, about giving me a message.

MS. MERKL: Clarification about what is referenced to Tommy Lee.

THE COURT: I'm sorry? You want to be more specific.

BY MR. JASPER:

Q Yes. Is that reference to a message that Tommy Lee is passing to you at MDC?

MS. MERKL: What?

Q Is that your understanding?

A Correct.

MS. MERKL: Do we have a line, a page?

THE COURT: Why don't we specify it.

MR. JASPER: Yes, your Honor. Lines 20 -- actually on through 31.

Q Do you see that segment, sir?

A Page 66, line 20?

Q Yes.

A Yes, I do.

Q Basciano says, "I told him about Allie. I told him about Allie."

Is it your understanding that Mr. Basciano told Tommy Lee, the attorney, about Allie?

A That's what he says.

Q And you say at 22, "I never got it."

A That's correct.

Q Then at 27, Basciano says the following, page 66, 27.

"I gave him a list of things, Bo."

Is it your understanding that, to him, is Tommy Lee?

A Correct.

Q Then you, Joe Massino, say at line 28, "Oh, yeah, he showed me some of the things."

Do you see that?

A Yes.

Q Some of the things that you are referring to is a list --

A No, it wasn't a list. It was a couple of things on it.

Q A couple of things on it?

A Yes.

Q A couple of things that referred to the running of the Bonanno Crime Family?

A Yes.

Q So it's your testimony that Tommy Lee would actually come with a list of items to show you that had come from the street, correct?

A It came from Vinny Basciano.

Q It came from Vinny Basciano himself, right?

A Correct.

Q And you would look at those notes, those lists?

A Yes, I would.

Q And then you would take those lists and then you would keep them, or you would give them back to Tommy Lee?

A I would rip it up.

Q And you ripped it up because it was a message that could incriminate you?
A Correct.
Q And you threw that paper away in the visiting room after tearing it up?
A I believe so. Or when a lawyer went to the bathroom, he flushed it. I would say more he flushed it.
Q You gave him -- did you make sure it was torn up first?
A I tore it up and I would give it to him. When you go to the bathroom, throw it away.
Q But in tearing it up, you wanted to make sure the lawyer didn't go to the bathroom with a complete list of these things; is that right?
A That's correct.
Q You did that because you wanted to conceal that?
A It was nobody's business.
Q Nobody's business but your own, sir?
A Correct, me and Tommy Lee.
Q Now, on page 67, at line 1, Basciano says: "Dominick, Dominick being a captain.

"Massino: Yes."

Is it your understanding that Basciano is indicating there, your understanding is that he informed you through a message that Dominick Cicale was being promoted to captain?
A After the fact, correct.

Q After the fact, but he is telling you, right?
A Yes, he is.
Q Did you send back approval?
A Yes, to leave it.
Q I'm sorry?
A To leave it. To leave it alone. I didn't put up no house to leave alone.
Q So my question is, sir: Did you send back approval?
A Fine. I told him fine.
Q Then at page 67, line 5, the following attribution to Mr. Basciano appears.

"Me, I told that Vic Guiliani, tell him that let me take the spot and put the rings in my hands. Beat me 7-1-1. He beat me 7-1-1 that I should be the guy."

Do you see that?
A Yes, I do.
Q Then the next attribution at line 9 says, "I had no problem with you there then"; is that correct?
A Correct.
Q Was that a true statement?
A At that time he took over, I didn't care. I left him there.
Q My question to you, sir, is: At that time that you made that statement, "I had no problem with you there then," was that a true statement?

A Yes, it was.

Q Yes?

MR. JASPER: Your Honor, at this time can I ask that clip 13, starting at line 29, page 68, be played.

Your Honor, could I just have one brief moment with counsel?

THE COURT: Yes, you may.

(Pause.)

Q Mr. Basciano, just to go back to --

THE COURT: Massino.

Q I'm sorry. Mr. Massino, just for a second, could we go back to page 67, line 5. The attribution to Mr. Basciano from 5 to 8 that we just read, was it your understanding, your understanding, that Mr. Basciano was asking for permission to take the reigns of the family?

MS. MERKL: Objection. Clarification, your Honor.

THE COURT: Sustained.

Q Line 5.

"Me, I told that Vic Guiliano tell me that let me take the spot and put the reigns in my hand." This is Basciano. "Beat me 7-1-1. He beat me 7-1-1 that I should be the guy.

"Massino: I had no problem with you there then."

At that point in time, would that segment, 5 to 9, was it your understanding that -- was it your understanding that Mr. Basciano was asking for permission to take the reigns of

the Bonanno Family, yes or no?

MS. MERKL: Objection to form. Time frame, your Honor.

MR. JASPER: Your Honor, at the time that this --

Q This message of beeping, the time frame of this segment is sometime in February or March of 2004; is that correct?

A I don't recall.

Q Is it around that, approximately that?

A Sometime in 2004, that's fair to say.

Q That sounds right, doesn't it?

A March, April.

Q So in that period of time, is it your understanding that what is being said by Mr. Basciano here while you are talking, wearing a wire, is that Mr. Basciano was asking for permission to take the reigns of the Bonanno Crime Family, yes or no?

A No.

Q But your attribution on 9 is, "I had no problem with you there then," correct?

A Correct.

MR. JASPER: Your Honor, if we could play clip 13, which appears on page 68, line 29.

(Recording played.)

Q Now, Mr. Massino, you -- had you ever heard of the place called Villa Sonoma before this conversation occurred with Mr. Basciano?

A Never heard of it.

Q And on page 70 on line 18, where it says, "He comes back a week and a half later, now he tests me. He says listen to me, Randy went into Villa Sonoma, he went in with a gun. He got drunk and he says he's the only one capable of killing anyone in this family. He said he was an ex-Seal and he was this and he was that. You know, talking like an F'ing jerkoff."

Had you ever heard those comments about Randy Pizzolo before this conversation which occurred on January 3, 2005, sir?

A Never heard it. It's the first time.

Q Then you say in the next attribution at line 27, "Massino: No, but, but, you see you just -- you just saying let me if I'm wrong, correct me. I see you on a Friday in the bullpen," correct?

A Correct.

Q That's the November 23, 2004 bullpen meeting with Mr. Basciano?

A Correct.

(Continued on the next page.)

Q And then you say in the next attribution at line 27, Massino: "No, but -- but you see, you're just -- you're just saying, if I'm wrong, correct me. I seen you on a Friday in the bullpen."

Correct?

A Correct.

Q That's the November 23rd, 2004 bullpen meeting with Mr. Basciano?

A Correct.

Q And on November 23rd, 2004, Mr. Basciano, "I think you said -- never mentioned anything about Randy Pizzolo," right?

A That's correct.

Q And then, of course, on line 33, you say, Massino: "You never mentioned one word about Randy?"

Basciano: "Well, you know what I -- I --

Massino: "Let me finish. That was on a Friday. Following Friday, we had a co-defendant meeting, and that's when you tell me that youse clipped him. Why don't youse tell me that Friday? Why didn't you ask me?"

Now, the co-defendant meeting, I think you said occurred a week later, about December second or December third, 2004, is that correct?

MS. MERKL: Objection; misstates the testimony.

A Could have been November or early part of December.

THE COURT: I'm sorry. What's the objection? I

didn't hear it.

MS. MERKL: Misstates the testimony, but the answer is --

THE COURT: All right. It's withdrawn. The answer remains.

Go ahead.

BY MR. JASPER:

Q And you say on page 71, "Why don't youse tell me that Friday? Why didn't you ask me?"

You see that?

A Yes, I do.

Q Basciano: "(Sighs.)"

Massino: "Why didn't you ask me that Friday? You didn't."

Basciano: "It was already in the works, Bo."

Massino: "Yeah, but you didn't see me on Friday. But you didn't see me on a Friday. You didn't tell me nothing."

Basciano: "No. No."

Massino: "Did I see you in the bullpen?"

Basciano: "Yeah."

Now, what you're saying there is that Mr. Basciano didn't ask you anything about Randy Pizzolo, correct?

A Correct.

Q And that's what you would have expected Mr. Basciano to do, is that correct?

MS. MERKL: Objection; expectation.

THE COURT: Sustained.

BY MR. JASPER:

Q Well, when you say, why didn't you ask me, you're basically -- are you saying why didn't you ask me what you wanted to do with Randy Pizzolo? Is that a fair statement?

A That's a fair statement.

Q Now, when Mr. Basciano says at line six, "It was already in the works, Bo," you had no idea whether or not anything was in the works, correct?

A I got to believe what he was telling me, that Randy was in the works and he couldn't stop it.

Q But my question to you is, you had no way of knowing whether or not that was true, isn't that so?

A I was going to take his word.

Q Why question is, you didn't know whether or not that statement, "It was already in the works, Bo," was true, yes or no?

A That's correct. Yes.

Q In fact, you had no way of knowing what was in Mr. Basciano's mind about Randy Pizzola at the time that this statement is made, yes or no?

A Correct.

MR. JASPER: Your Honor, could we have clip 14 played, which is at page 71, line 25?

(Audio played in open court.)

BY MR. JASPER:

Q Now, on page 72, at line 12, this statement is attributed to Mr. Basciano: "No. you're right, Bo. This kid, though. Listen, this kid deserves it. This kid was an F-ing thorn. He didn't listen to no F-ing body."

And then you say at line 16, "I would have chased him."

Now, when Mr. Basciano was saying to you, "This kid deserved it. This kid was an F-ing thorn. He didn't listen to nobody," you don't know whether or not that statement is accurate, correct?

A That's correct.

Q And then you say at line 30, page 72, Massino: "This kid, I would have chased him, would have told him listen to me." And you described -- you describe something there. And you say, "Randy, you're over here. You're chased. When you get your act together, then you come back in the fold. 'Til then -- 'til then, you're here 'til you die. Now get out of here. That's what I would have did," correct.

A That's correct.

Q And you saying there, "Just run him away," right?

A You just chase him, correct.

Q And then Dominick, and then Mr. Basciano at line three says, "I told Dominick, I told Dominick to tell the kid to

start a new life in Florida. Stay away from us. Dominick told him -- Dominick told him -- came back to me that he told Al Turner who is around Tony Parkside that he ain't going to F-ing Florida. He'll stay right here. I mean, how much more?"

Massino: "But you don't -- but that's fine. Let him stay right there. See what he does. I mean, you can bring him back. I'm only telling you for the future."

Now, when Mr. Basciano is saying to you what he told Dominick, that you're understanding is that that's Dominick Cicale?

A Dominick Cicale, a captain in the Bonanno family.

Q And it's your -- you have no way of knowing whether or not that statement is true, correct?

A That's correct, sir.

MR. JASPER: Your Honor, could we play clip 15, which appears at page 73, starting at line 17?

(Audio played in open court.)

BY MR. JASPER:

Q Now, Mr. Massino, on page 73 -- well, on page 73, you say, "I was home 11 years. I hurt nobody."

A What line is that, counselor?

Q Line 31.

A Thank you. Go ahead.

Q Massino: "I was home 11 years. I hurt nobody. I hurt one guy."

You see that?
A Yes, I do.
Q Now, what you're saying there is that in 11 years, you only murdered one person, correct?
A That's correct.
Q What you're saying there that is you murdered George in Canada, correct?
A Correct.
Q You're leaving out the seven people that you murdered prior to those 11 years, correct?
MS. MERKL: Objection, Your Honor. Leaving out?
THE COURT: Sustained.
BY MR. JASPER:
Q You're not mentioning -- you're not including the seven murders that you were convicted of?
A We didn't talk about this.
THE COURT: Wait a minute.
THE WITNESS: Sorry.
THE COURT: Sustained.
BY MR. JASPER:
Q And then on page 74, you say, at line five, "You come to me. You tell me something. Do I give you a day in court?"
Basciano: "Yes."
Massino: "I give everybody a day in court."
Do you see that?

A Yes, I do.
Q Now, my question to you is, did Georgie Sciascia get a day in Court?
MS. MERKL: Objection.
THE COURT: You may answer.
A No, he didn't.
BY MR. JASPER:
Q And the three captains, did they get a day in court?
MS. MERKL: Same objection.
A No.
THE COURT: Overruled. The answer was no.
THE WITNESS: No.
BY MR. JASPER:
Q And then, at line 24, page 74, you say, Massino, "But to me, life is precious."
See that?
A Yes, I do.
Q And you meant that?
A Yes, I did.
Q Now, while Mr. Basciano was giving you --
A What line are we talking about, counselor?
Q This is just a question.
A Oh.
Q While Mr. Basciano was giving you a description of how Randy Pizzolo was acting, you still -- when Vinny Basciano was

giving you these reasons about Randy Pizzolo, describing how he was acting, you had never heard about these incidents before, I think you told us, correct?

MS. MERKL: Objection; compound.

THE COURT: Sustained.

BY MR. JASPER:

Q You never heard about Randy Pizzolo, the things that Mr. Basciano was saying about him on this tape, in this conversation, before this day, correct?

MS. MERKL: Objection; things, compound.

THE COURT: Sustained.

BY MR. JASPER:

Q Things -- actions that Mr. Pizzolo would have taken?

MS. MERKL: Objection to form.

THE COURT: Sustained.

BY EURBGS:

Q You page 77, you say -- Basciano says at line 13, page 77, "You have to be the guy. I tell you why."

And then you, Joe Massino, say at line 14, "What am I going to do? I'm going to be in Colorado or" --

Basciano: "No, listen. This is a selfish statement I'm going to make. You got to be the guy. Let me make the shots. You're the guy."

Massino: "But you can't. Let me tell you why. And it ain't going to work, no matter where I go. I'm going to

probably have nobody on my visiting list."

When you say said that you were going to be going to Colorado, what did you mean?

A I was lying at the time.

Q And my question to you is, what did you mean when you told that lie?

A That I was going to go to Colorado. I would have nobody on my visiting list.

Q What is in Colorado?

A You're locked down 24 hours a day.

Q And that Colorado institution is known as --

MS. MERKL: Objection, Your Honor.

THE COURT: Sustained.

BY MR. JASPER:

Q I think you told you that in Colorado, you're looked down for many hours a day? That's what you just said?

A Twenty-three hours day, yes.

Q Twenty-three?

A Twenty-three hours a day.

Q And you said that that was a lie you told to Mr. Basciano?

A That's correct.

MR. JASPER: Your Honor, is this a good place to stop?

THE COURT: 'til three o'clock. Just keep going.

BY MR. JASPER:

Q Now on page 78, you -- Mr. Basciano says at line 31,

"Michael -- Michael went to" --

Massino: "Is Michael having a problem with Dominick?"

Page 79, line one, "Michael went to Dominick and wanted to know all the things that I have in the street. Dominick caught a delusion."

Massino: "Why would Michael want to know what you have in the street? It's not his business."

Now, again, this is -- your understanding is a reference to the tension between Dominick Cicale and Michael Mancuso?

A I don't know if that was the tension.

Q And then you say, Massino, at line four, "Why would Michael want to know what you have in the street? It's not his business."

Basciano: "Louie Electric, maybe he was figuring if Dominick got pinched, he just wanted all the money."

Massino: "Well, all right."

What did you understand that segment to be about?

A That he wants to know what the family's got. Michael Nose wants to be brought up to date what the family's got, the Bonanno family.

Q And he was asking that of Dominick Cicale?

A Dominick Cicale was a captain in the Bonanno family, yes, counselor.

Q And Michael Mancuso was asking that because your understanding that Michael Mancuso was the acting boss at the time?

A That's correct.

Q And then when Massino said -- says line 15, "Where the hell does Alfred come in?" This is page 79. "Where the hell does Alfred come in? Alfred was so F-ing" --

Basciano: "Michael went to see Alfred on his own."

Massino: "All right."

Basciano: "And Alfred says, don't make sense. Why did Michael ask me this? And the three of them were uncomfortable, so I sent word back to Dominick, and I said, Dominick, send Michael my love. Tell him I'm behind him a thousand percent. Remember what I told -- I sent a note with Tommy Lee. I don't know if Dominick gave it to him, nice and easy. Remember, no messages coming in the way they're supposed to."

What was your understanding of what Mr. Basciano was saying there?

A He was telling Michael to take it easy, just go slow.

Q And then when you say, page 79, line 30, Massino, "Well you see, Tommy Lee, when we were downstairs the last time, he said to me, if you don't see Vinny, Vinny's got something to tell you, I'll tell you. I said okay. But you know, getting a lawyer, he'll tell you what he wants to tell you."

Basciano: "Yeah."

Massino: "You know, we talking about La Cosa Nostra."

Basciano: "Yeah."

And what you're saying there is, you're understanding there is that messages may not be coming in the right way?

A That's correct, counselor.

Q And are you also -- are you also regretful in a way that you're having to use a lawyer to communicate this way?

MS. MERKL: Objection.

MR. JASPER: You, yourself?

THE COURT: Sustained.

BY MR. JASPER:

Q Well, were you happy to have to use a lawyer to communicate?

MS. MERKL: Objection.

THE COURT: Sustained.

BY MR. JASPER:

Q When you say on page 80, line one, "You know we're talking about La Cosa Nostra, what did you mean there?

A That you're giving a lawyer messages and we're talking about the mob, La Cosa Nostra. He's a lawyer. He can tell you what he wants to tell you. I don't know. These messages weren't coming back right.

MR. JASPER: Your Honor, at this time, could I ask that clip 16 be played, which occurs at line 13, page 80?

THE COURT: Okay.

(Audio played in open court.)

BY MR. JASPER:

Q Mr. Massino, on page 81, line four, you say, Massino: "I went backwards."

A Excuse me, counselor?

Q "My brother-in-law, Big Lou, Richie."

THE COURT: I'm sorry. What page are we talking about?

MR. JASPER: Page 81, Your Honor.

THE COURT: Page 81, line?

MR. JASPER: Line four.

THE COURT: Okay.

BY MR. JASPER:

Q Massino: "I went backwards. You know who benefited out of this thing? Guys like my brother-in-law, Big Lou, Richie."

You're saying you went backwards, you mean financially?

A Everything.

Q Everything?

A Yes, counselor.

Q And you're saying that you went backwards, but your brother-in-law, Big Lou, James Tartaglione -- big Lou is James Tartaglione?

A Correct.

Q And Richie is Richie Cantarella?
A Correct.
Q They benefit. That's what you're saying?
A Yes.
Q And then on line ten, where you say, "I worked my whole life" --

Basciano: "And then" --

Massino: "I broke my F-ing ass like Guadalcanal."

What are you saying there to Mr. Basciano?

A What I'm telling him I worked hard my whole life. I didn't need what I had.
Q You didn't need what you had?
A Correct. I didn't need to be the boss.
Q You're telling Mr. Basciano that you didn't need to be the official boss of the family?
A I didn't need -- I didn't need the life, correct.
Q You didn't need the life of crime is what you're saying?
A Correct.
Q You could have made millions without being involved in stolen goods and shylocking and sports betting?
A That's fair to say.
Q But the reality is that you did become a millionaire being involved in all of these things, isn't that so, sir?
A That's correct.

MR. JASPER: Your Honor, is this a good time to stop?

THE COURT: A few more questions.

BY MR. JASPER:

Q When you say you broke your F-ing ass like Guadalcanal, you know what happened at Guadalcanal, correct?

A Yes.

Q You did not break your F-ing ass for your country, correct?

MS. MERKL: Objection, Your Honor.

THE COURT: Sustained.

MR. JASPER: Your Honor, those are all the questions I have on clip 16.

THE COURT: Okay. Very well.

Members of the jury, we're going to suspend now until Thursday morning at 9:30.

I'm going to remind you not to discuss the case with anyone, not to discuss the case amongst yourselves.

If you're taking notes, please leave them in the jury deliberation room. You may leave the binders at your seats here in the courtroom.

Do not read listen to, watch or access on the internet any accounts of this case. Do not attempt any independent research about this case. Do not visit any of the locations identified during the course of questioning.

And all the other instructions that I have given you repeatedly remain in effect regarding the use of the internet and websites and social media.

So at this time, those of you who are celebrating the Passover, I wish you a Happy Passover, and we will resume on Thursday afternoon (sic) at 9:30. All rise for the jury.

(Jury exits.)

THE COURT: Everyone may be seated.

All right. The witness is excused. You may stand down. I remind you not to discuss your testimony with anyone, and we'll resume with your testimony on Thursday morning at 9:30.

THE WITNESS: Thank you, Your Honor.

THE COURT: You're welcome.

(Witness exits.)

THE COURT: We just corrected that with the jury. I misspoke. I said Thursday afternoon at 9:30. It's -- you may be disappointed, but it's Thursday morning, at 9:30.

Now, at this point, Mr. Jasper, do you have a better sense of how much time you're going to need on Thursday? So we can plan for other witnesses?

MR. JASPER: Judge, I think I should be -- I hope to be finished by one, 1:30.

THE COURT: All right. So do you have -- do you have a group of witnesses for Thursday?

MS. MERKL: We do, Your Honor. We're still trying to determine exactly who is going to be next. The defense has inquired. We're just finalizing travel arrangements and

figuring that out.

THE COURT: How soon will you know because they need time, also?

MS. MERKL: We'll give them -- it's mostly surveillance and law enforcement witnesses, Your Honor. So it's not going to be an extensive amount of review, 3500, along those lines. I spoke with Mr. Goltzer about it.

MR. GOLTZER: Our primary concern is wondering who the next cooperator is going to be.

THE COURT: That's the Court's primary concern, as well.

MS. MERKL: We're attempting to figure that out, Your Honor. This cross obviously went longer than expected, and we're going to have discuss it in terms of rejuggling our anticipated order of proof.

THE COURT: Will you have an answer by Thursday on that.

MS. MERKL: Absolutely, Judge. We will certainly advise defense counsel as soon as we have had an opportunity to reconfirm.

MR. GOLTZER: As long as we have the weekend.

MS. MERKL: Your Honor, I'm not promising that we wouldn't have a cooperator on Thursday. We're trying to figure that out. We anticipated that Thursday would be a new cooperator, not knowing that Mr. Jasper would be taking this

much time with Mr. Massino. We're going to discuss it as a team and try to figure out what makes sense logistically.

THE COURT: Even if you have a cooperator start on Thursday afternoon, the defense is going to have to whole weekend to further prepare for cross-examination.

Wouldn't you say that, Mr. Goltzer?

MR. GOLTZER: Yes. I would doubt very much if they're calling several surveillance witnesses that a major cooperator would be finished by Thursday afternoon.

THE COURT: I would imagine. And also, on the other hand, what you heard from the government was that who they call depends on availability. So it may be that they start with a cooperator on Thursday.

MR. GOLTZER: I have -- I have no interest in trying to dictate their sequence, we, of course, have a list of 112 witnesses with 3500 material. So it would be helpful if we just knew who to bring.

MS. MERKL: And we will certainly advise them, Your Honor.

THE COURT: Well, that's been useful.

Is there anything else from the government for today?

MS. MERKL: Nothing from the government, Your Honor. Thank you.

THE COURT: Anything else from the defense?

MR. GOLTZER: No thank you.

THE COURT: All right. Those of you who are celebrating Passover, Happy Passover. See you Thursday.

(Trial adjourned to April 21, 2011, at 9:30 a.m.)

I N D E X

WITNESS

JOSEPH MASSINO

Cross-Examination by Mr. Jasper 5395

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